

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR.

QA No.106/1997

Date of order : 16.03.2001

Smt. Kamla, Wife of Shri Ghanshyam, aged about 35 years, resident of Goga Gate, Harijan Basti, Bikaner was working as Safaiwali in the Office of the Joint Scientific Officer (Bio-Chemistry) Field Station for investigation on Locusts, Nagnechiji Road, Bikaner.

...APPLICANT

V E R S U S

1. Union of India, through the Secretary, Department of Agriculture and Co-operation, Ministry of Agriculture, New Delhi.
2. The Chief Administrative Officer, Director of Plant Protection, Faridabad (Haryana).
3. Deputy Director (E. And T.), Lovest Warning Organisation, Near Satimata Mandir, Air Force Area, Jodhpur.
4. Joint Scientific Officer (Bio-Chemistry), Field Station for Investigation on Locusts, Nagnechiji Road, Bikaner.

...RESPONDENTS

None is present for the applicant.

Mr. S.K. Vyas, Counsel for the respondents.

CORAM

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

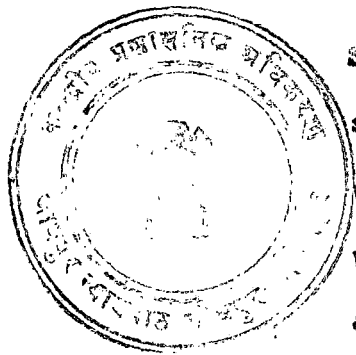
Hon'ble Mr. Gopal Singh, Administrative Member

ORDER

(per Hon'ble Mr. Justice B. S. Raikote)

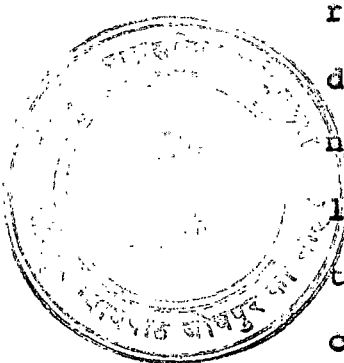
In this case, the applicant has challenged the Annexure A/1 dated 28.11.96 by which the applicant's services as a part time Safaiwali was terminated. The applicant contended that the applicant was entitled to be regularised as a Safaiwali on the ground that the applicant is working continuously for more than 3 years and the impugned order is illegal. The applicant accordingly prayed for an appropriate direction to the respondents.

2. By filing reply, the case of the applicant has been denied by the respondents. Respondents contended that the applicant was working only as part-time Safaiwali, therefore, she was not entitled to regularisation. They have also stated that the applicant was working 2 to 3 hours as Safaiwali for a specific period with the clear terms and conditions that applicant's appointment was made as part time Safaiwali, and she was not being engaged as full time employee, and as a part-time employee, she would not claim for regularisation. They have also furnished copies of those appointment orders vide Annexure R/1-A to R/1-D. They have stated that the applicant was not engaged on salary of Rs. 400/- but in fact, she was paid only half of the wages prescribed in the Gazette notification, dated 14.11.1996 vide Annexure R/2. In substance, their argument is that the appointment of the applicant was only for a specific period with the condition that her services would be terminated at any time. But on such appointment, the applicant was not entitled to regularisation. When fresh



appointment order was given to her vide letters dated 05.03.1997 and 11.04.1997 (Annexure R-6 and R-7) with clear terms and conditions, she did not join the duty. They have also made available copies of the said letters Annexure R-6 and R-7. Accordingly, they contended that absolutely there are no merits in this application, and there is no violation of Articles 14 and 16 of the Constitution, as contended by the applicant.

3. The learned counsel for the official respondents relied upon the judgement of Calcutta Bench of the Central Administrative Tribunal passed in O.A. No. 662/1990. Last time, the said judgement was brought to the notice of the Tribunal and the same has been recorded in the proceedings dated 01.02.2001 with a direction that the matter would be disposed of on the next date fixed, without any further adjournment. The learned counsel for the applicant who is not present today has not brought to our notice any other judgement contrary to the judgement referred to above.



4. In this case, as contended by the respondents, the applicant was appointed as a Safaiwall for a fixed period. On the basis of such appointment as part-time Safaiwall, the applicant is not entitled to regularisation. The C.A.T., Calcutta Bench vide judgement and order dated 12.10.1993 in O.A. No. 662/1990, has considered the similar case of a part time Safaiwala and held that such part time Safaiwala is not entitled to regularisation. The Calcutta Bench of C.A.T. accordingly, directed as under :-

" In view of the above discussion and relying on the principle enunciated by the apex court, we dispose of this

application with the direction that as and when a Safaiwala, whether whole time or part-time, is engaged by the respondents office, the applicant shall be given preference over the others. Since the applicant is willing to serve any where in the country we direct the Plant Protection Advisor, Directorate of Protection Government of India to consider the case of the applicant for engagement in a suitable group-D category post provided his name is sponsored by the employment exchange and he is found otherwise suitable. No costs".

5. We find that the said judgement clearly applies to the facts of this case and a similar direction to the one issued by the Calcutta Bench, can be issued in this case also. Accordingly, we pass the order as under :-

" The applicant's prayer in the O.A. for regularisation is hereby dismissed. However, the respondents are directed to consider the case of the applicant for appointment as Safaiwali, whether full time or part-time, whenever the department considers that such appointment of Safaiwali is necessary. In case of such appointment, the applicant shall be given preference over the others. If the applicant is willing to serve any where in the country, the respondents may consider her case for appointment as Safaiwali in some other units of the department. It is also made clear that, it is open to the respondents for engagement of the applicant in a suitable group-D category post provided her name is sponsored by the Employment Exchange and she is found otherwise suitable. No costs " .



Gopal Singh
(GOPAL SINGH)
Admn. Member

B.S. RAIKOTE
(B.S. RAIKOTE)
Vice Chairman

Copy
8/21/7

Copy A order dated 16/3/7
sent to the court for approval
via email 118 dated 29.3.201

Postal AD
with 8/3
11/5/7

Part II and III destroyed
in my presence on 22.2.07
under the provision of
section 11(1) as per
order of 29.3.07

Section Officer (Records)