

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

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Date of order : 8.9.2000

O.A.NO. 238/97

1. Jitu Singh S/o Shri Sohan Singh, R/o Rajmatasa Nohra, Bikaner.
2. Umarddin S/o Shri Jamaldeen, R/o C/o Anar Singh, Rajmataji Ka Nohra, Bikaner.
3. Kishan Singh S/o Shri Hari Singh, R/o M.E.S. Colony, Quarter No. 48/6 G.E., Bikaner.
4. Rameshwar, S/o Shri Gopi Ram R/o Sohan Singh Bika Rajmata Ka Nohra, Bikaner.

.....Applicant.

vs.

1. Union of India through Secretary,
Ministry of Defence, Raksha Bhawan,
Government of India, New Delhi.
2. Commander Works Engineer (P), Headquarter, Bikaner.
3. Garrison Engineer, M.E.S., Bikaner.

.....Respondents.

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CORAM :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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Mr.Mukesh Vyas, counsel for the applicants.

Mr.Ravi Bhansali, Counsel for the respondents.

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PER HON'BLE MR.A.K.MISRA :

The applicants had filed this O.A. with the prayer that the communication dated 13.6.97 (Annex.A/1) be quashed and the respondents be directed to re-employ the applicants on the post of Chowkidar/Safaiwala, in pursuance of the order passed by

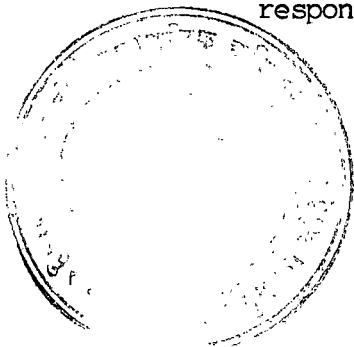
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this Tribunal on 29.10.91 in O.A.No.14/90 - Jeetu Singh & Others Vs. UOI and Ors.

2. Notice of the O.A. was given to the respondents who have filed their reply to which no rejoinder was filed.

3. We have heard the learned counsel for the parties and have gone through the case file.

4. From the file, it appears that the applicant had filed an O.A. earlier on the ground that they had completed more than 240 days and, therefore, the respondents be directed to re-engage the applicants whose services were terminated. There were number of O.As filed by similarly situated workers. Such applications numbering eight in which number of workers were applicants came to be decided by this Tribunal on 29.10.91. In our earlier order, following directions were given to the respondents :-



"Accordingly, we allow the applications filed by the applicants and it is directed that those applicants, who have served for more than 240 days with the respondents, shall be re-employed within three months from the date of the receipt of this order but they will not get any back wages. However, in cases where the applicants have not completed 240 days' service with the respondents, they shall be given an opportunity of re-employment in preference to others, as and when vacancies arise. No order as to costs."

5. It is contended by the applicants that the compliance of the order of the Tribunal was not done by the respondents and consequently applicants were forced to file a Contempt Petition which was registered at No. 1/92. In that case, the respondents gave their reply alleging therein that no vacancies for adjusting the applicants exist, therefore, the applicants cannot be re-employed. Consequently, the Contempt Petition was dismissed. It

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is alleged by the applicants that thereafter the respondents have been engaging workers but have not re-engaged the applicants. In response to the applicants' application dated 5.6.97 for re-engaging them in the appropriate trade, the applicants were informed vide communication dated 13.6.97, Annex.A/1/^{to Annex.A/3} to get their names sponsored through the Employment Exchange in case they want consideration of their re-engagement. This is the communication which is under challenge. On the other hand, the respondents have replied that for purposes of employment it is necessary that the names of the candidates should be sponsored by the Employment Exchange as per rules. Since the applicants wanted to^{be} re-employed, therefore, they were informed accordingly. Reengaging or extending employment to any candidate without the name being sponsored by the Employment Exchange, is against the rules. Since the applicants have not cared to get them sponsored through the Employment Exchange, therefore, they were informed vide impugned order dated 13.6.97.



6. We have considered the rival contentions. In our opinion, respondents were required to extend the benefit of re-employment to the applicants of the earlier O.As who had completed 240 days or more in the service of the respondents. The earlier order quoted above was quite clear. In view of the specific order it is not necessary that for re-employment of such applicants their names should be sponsored by the Employment Exchange. All what is^{further} necessary is that^{if} as per the record of the respondents they have not completed 240 days ~~or more~~ in service of the respondents then such applicants are to be re-employed in preference to others.

7. It may be noted that the applicants if required^{now} to register themselves in Employment Exchange then their names are not ~~likely~~ to be sponsored because of their later registration.

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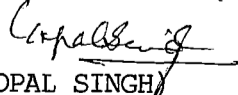
Naturally, they will have no chance of re-engagement which would be against the specific direction of this Tribunal passed in O.A.No. 14/1990 decided on 29.10.91. In our opinion, the candidature of the applicants for re-employment are required to be considered only in terms of the order passed earlier. They cannot be directed to come through Employment Exchange for purposes of such re-engagement.

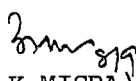
8. During the course of arguments, it was stated by the learned counsel for the applicants that since 29th October, 1991, till 1997 number of vacancies had occurred in the respondent department but the applicants were not re-engaged. On the other hand, number of fresh candidates were employed and are working in the department. We understand that the requirement of the department is perennial for such labour and consequently the respondents can be directed to consider re-engagement of the applicants for such fresh vacancies which may arise hereafter without asking the applicants to come through Employment Exchange.

9. In our opinion, the O.A. deserves to be accepted in terms of the above observations.

10. The O.A. is, therefore, accepted. The communication to Annex.A/3 dated 13.6.97, Annex.A/1 are hereby quashed and the respondents are directed to re-employ the applicants on the posts of Chowkidar/Safaiwala in terms of our earlier order dated 29.10.1991 passed in O.A.No. 14/90 Jeetu Singh and Ors. Vs. UOI and Others against the existing vacancies as on date within a period of three months or in such vacancies as and when they occur in future/hereafter, without asking them to come through Employment Exchange.

11. The parties are left to bear their own costs.


(GOPAL SINGH)
Adm. Member


(A.K. MISRA)
Judl. Member

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Part II and III destroyed
in my presence on 10.1.07
under the supervision of
section officer () as per
order dated 10/11/06

W. L. M.
Section officer (Records)

*Rec 09/11/07
Lgr 15/11/07*

*copy of order sent to
the counsel for Applicant
vide no 307
dtd 19.2.2008*