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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

**ORIGINAL APPLICATION NO.202/2006
JODHPUR THIS DAY 26 APRIL, 2010**

CORAM:

**HON'BLE MR. JUSTICE SYED MD. MAHFOOZ ALAM, JUDICIAL MEMBER
HON'BLE MR. V.K. KAPOOR, ADMINISTRATIVE MEMBER.**

Vijay Kumar Chaumal S/o Shri Panna Lal, aged 26 years, R/o Tilak Nagar, Bikaner. Official address-Steno cum Date entry Operator-office of Commissioner, Income Tax (Appeals), Bikaner.

.... Applicant

For Applicant : Mr. Hemant Dutt, Advocate.

VERSUS

1. The Union of India through the Secretary, Ministry of Finance, Department of Revenue (Income Tax) New Delhi.
2. Chief Commissioner, Income Tax, Jodhpur.
3. Commissioner, Income Tax (Appeals), Bikaner.

.... Respondents.

For Respondents: Mr. Varun Gupta, Advocate.

ORDER

(Per Mr. V.K. Kapoor, Administrative Member)

Sri Vijay Kumar Chaumal has filed the present OA against the order of Chief Commissioner of Income Tax, Jodhpur (respondent 2) in discontinuing the services as steno cum data entry operator. As such, he has sought the relief that is as follows:-

"It is most respectfully submitted that the action of the non applicant in dis-continuing the applicant may be quashed and set aside and they may be directed to forthwith reinstate the applicant on the post of steno cum data entry operator, with all consequential benefits."

2. The brief facts of the case are that the applicant was working as data entry operator from 01.01.2003 on a fixed pay of Rs.100/- p.m. The permission to keep a data entry operator was sought by respondent 3 from the respondent 2 vide letter dt 09 June, 2003 (Ann.A-1). This permission was accorded by respdt 2 vide letter dt

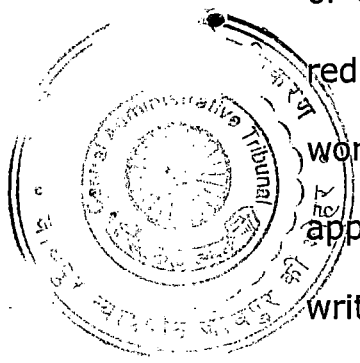




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20 Aug, 2003 (Ann.A-2). Applicant has enclosed work experience certificate dt 29 Sept, 2004 besides character certificate (Ann.A-3). The resdt 3 wrote to respdt 2 to continue/ extend the services of applicant vide letter dt 25 March, 2004 (Ann.A-4). The permission to keep/appoint one person from 01 April, 2004 to 31 March, 2005 was accorded by respdt 2 vide order dt 13 May, 2004 (Ann.A-5). His work was said to be above board. But on 10 Jan, 2005, all of sudden, his services were terminated, but some persons appointed later/junior to applicant were retained. Applicant filed OA 220/2005 at Tribunal Jaipur; vide order dt 28 April 2006, this was disposed of on grounds of territorial jurisdiction. Applicant has prayed that his discontinuance from service by respdts be quashed & he be reinstated on the post of steno cum data entry operator forthwith.

3(a). The respondents in reply have stated that CIT, Bikaner respondent 3 had asked the applicant to work as steno cum data entry operator @ Rs.100/- per day from 15 Jan, 2003; approval was given by respondent on 09 June, 2003. Later, workload in the office of Commissioner of Income Tax (appeals), Bikaner (respdt 3) had reduced, the applicant was asked to work in the range for computer work, but he refused. In view of larger work interest of organization, applicant's services were not required from 10 Jan, 2005. No regular/ written appointment letter was ever issued; he was working as daily wager @ Rs.100/- per day on purely temporary basis. The applicant's services were not satisfactory/upto the mark, therefore, he was disengaged from daily wage temporary work.

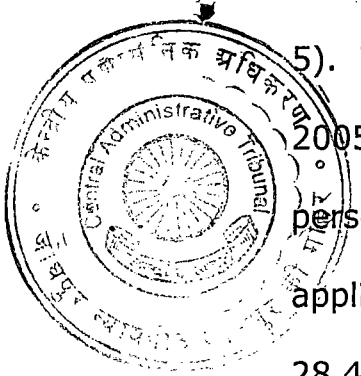


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3(b). The applicant in rejoinder has stated that he was working as a steno cum data entry operator w.e.f. 15.01.2003; he actually worked for 22 days in Jan, 2003. The allegations leveled against the applicant are denied to the extent that he never refused to perform any kind of duties. He was engaged on temporary basis @ Rs.100/- per day with permission of CCIT, Jodhpur/respdt 2 (Ann.A-2). The services of the applicant were much appreciable; the action of respondents was against the principles of natural justice.

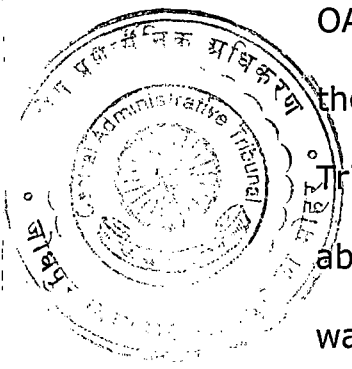
4(a). Learned counsel for applicant contended that he was appointed on daily wages from 01.01.2003, the appointment as steno cum data entry operator was made on temporary basis on verbal order. There was an order not to engage contingent staff on daily basis from CCIT, his services were terminated. An approval was sought for extension of applicant's services keeping in view heavy work pressure; permission was accorded to keep one daily rate worker, he has appended his work experience certificate (Ann.A-1 to A-5). Vide order dt.13.5.2004, permission was given to keep one person on daily rate temporary basis from 01.4.2004 to 31.3.2005 (Ann.A-5). The applicant was working on this post, but suddenly on 10 Jan, 2005, his services were terminated verbally; later some new persons were engaged on the post vacated by the applicant. The applicant moved before Tribunal Jaipur; in OA 220/2005, by order dt 28.4.2006, Tribunal directed him to file an application before proper forum. The applicant is not given chance for hearing; in temporary employee's case also, rule of natural justice be followed.



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4(b). Learned counsel for respondents⁴ in arguments has narrated that the applicant was kept as steno cum computer programmer on temporary basis. As there was less job work, so his services were terminated. As there was practically no vacancy; applicant's services were not required. No right accrues to daily wagers 2006 AIR SCW 1991 Secretary, State of Karnataka & Ors vs. Umadevi & Ors.

5. The applicant was enrolled on the post of steno cum data operator from 15.01.2005 on daily wage basis. The CIT (Appeals), Bikaner (respdt 3) wrote to CCIT, Jodhpur (respdt 2) on 09.6.2003 that in view of pressing needs and overwork in the deptt. The applicant was directed to work on daily wage basis; thus approval was sought from him for 15.01.2003 till 31.3.2004. The CCIT, Jodhpur gave permission to keep one person; applicant has enclosed his character certificate as well (Ann.A-1 to A-3). Later, permission was given to keep one person for typing work from 01.4.2004 to 31.3.2005 on the request of CIT (Appeals), Bikaner (Ann.A-4,A-5). But all of sudden, the services of applicant were discontinued on 10.01.2005 on verbal order of respondent 3. The applicant moved in OA no.220/2005 in CAT, Jaipur, this application was disposed off on the ground of territorial jurisdiction vide order dt 28.4.2006 of the Tribunal. The applicant has termed his services as satisfactory and above board. It is averred by the respondents that the applicant was asked to visit various ranges, but his refusal to comply has irked the official respondents. Later, the workload was said to be reduced. The applicant was working on purely temporary basis and no appointment order was issued in his case; thus action of deptt in



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discontinuing his services was not fraught with legal implications.

As his services were not upto the mark, he was disengaged from the job of temporary nature. There are definitely some daily wagers who were being allowed to perform their work on daily wage basis.

The applicant has taken recourse to rule of natural justice; from record perusal, this is apparent that the depts showered mercy on him; the CCIT, Jodhpur extended his services by way of giving permission to keep a person upto 31.3.2005. But applicant's

conduct was not proper and his demeanour was unbecoming of a govt. employee. The respondents have relied upon Secretary, State of Karnataka & Ors. vs. Umadevi & Ors. 2006 AIR SCW 1991 that speaks of conferring no right on the appointee and doctrine of legitimate expectation cannot be invoked by such an employee.

Looking to his average work performance, his ouster cannot be termed as illegal or arbitrary. No malafide intent is manifest on the part of official respondents. There appears to be no colourful exercise of power on the official respondents' behalf; thus he is not entitled to get any relief from the depts. The depts have committed no legal flaw in discontinuing the services of the applicant rated below

being satisfactory, thus he deserves no relief as desired. Hon'ble Supreme Court in its judgment giving in the case of Secretary, State of Karnataka & Ors. vs. Umadevi & Ors. (2006 AIR SCW 1991) has categorically observed at para 39 of his judgment that there is no fundamental right those who have been employed on daily wages or temporary or on contractual basis, to claim that they have a right to be absorbed in service. They cannot be said to be holders of a post, since a regular appointment could be made only by making appoint-

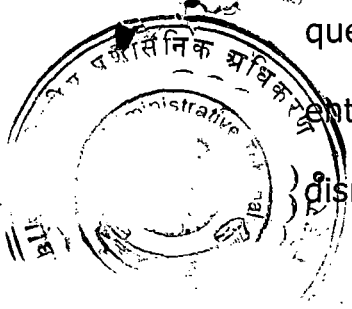


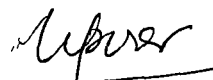
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ments consistent with the requirements of Articles 14 & 16 of the Constitution. In view of the observations of the Hon'ble Supreme Court in the above mentioned case, we have no alternative except to hold that the applicant, who was appointed on daily wages, has got no legal right to be absorbed in service. Thus, we hold that no case is made out in favour of the applicant.

6. In the light of deliberations made above, no relief need be given in regard to discontinuance of applicant's service. There is no question of reinstating the applicant on the post of steno cum data entry operator or any relief in this regard. The present OA is hereby dismissed with no order as to the costs.




[V.K. Kapoor]
Administrative Member


[Justice S.M.M. Alam]
Judicial Member

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Rec'd copy
of order dt 26/4/10
Expenditure
30/4/10

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(A. L. P. v. S. P.)
for v. sub
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