

II/6

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No.108/2007

Date of decision: 01.08.2007

Hon'ble Mr. Kuldip Singh, Vice Chairman,

Hon'ble Mr. Tarsem Lal, Administrative Member.

Gordhan Ram Choudhary, S/o Shri Bheeka Ram Choudhar, aged 57 years, resident of Behind Bhadwasiya School, Vishwakarma Nagar, Jodhpur. Presently working as MT Driver at Defence Laboratory Ratanada, Jodhpur.

: Applicant.

Rep. By Mr. P. M. Vyas: Counsel for the applicant.

VERSUS

1. Union of India through the Scientific Advisor to Ministry of Defence and Director General, Defence Research and Development Organisation (DRDO), south Block, New Delhi.
2. The Director, Defence Laboratory, Department of Research and Development, Ratanada, Place Jodhpur.
3. Joint Director, Defence Laboratory, Ratanada, Place Jodhpur
4. Joint Director, Department of Administration, Defence Laboratory, Ratanada Place, Jodhpur.
5. Joint Director, M.T, Defence Laboratory, Ratanada Place, Jodhpur.

: Respondents.

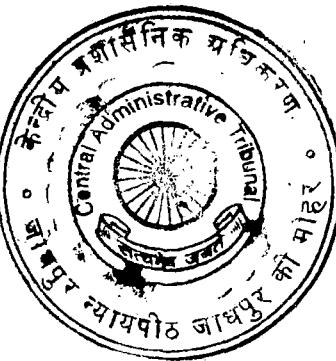
Rep. By Mr. L.R. Choudhary : Counsel for the respondents.

ORDER

Per Mr. Kuldip Singh, Vice Chairman.

The applicant in this case is challenging the order/letter dated 16.05.2007, by which his services stood terminated after 30 days from the said date. The said decision has been taken by the respondents on the basis of various judgements of the Apex Court mentioned in that letter/order.

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I/9

-2-

2. The facts of this case in brief, as alleged by the applicant, are that he is an employee of Defence Laboratory under DRDO, Ministry of Defence, Government of India. He was initially appointed as Driver on 01.04.95 for a period of two years probation and he was confirmed on 01.04.97. He was appointed to work in Rajiv Gandhi National Drinking Water Mission (RGNDWM) a project introduced by the Central Government under DRDO (herein after referred to as 'the project'). The said project came to an end on 31.03.95. The applicant has stated that since he is a permanent employee under the respondents his services cannot be terminated vide Annex. A/1 dated 16.05.2007. The applicant has therefore prayed for setting aside the impugned order.

3. The respondents are contesting the O.A by filing a detailed reply. It is stated that the project in which the applicant was appointed came to an end on 31.03.1995 and he was retained irregularly in service and he was continued in appointment as Driver. It is also stated that the project DLJ 267 had expired in April 1996. It is also stated that once the appointment is ab initio illegal and void, the confirmation of the applicant vide communication dated 23.06.2000 does not have legal validity. It is further stated that since a Constitution Bench of the Apex Court had held in **Secretary, State of Karnataka and other vs. Uma Devi and others** [2006 SCC (L&S),753] that once the initial appointment is illegal, the long continuance cannot give any right for regularization, the continuance of the applicant and the



E/80
D/10

-3-

confirmation had no validity. Therefore, they have prayed for the dismissal of the O.A.

4. We have heard the learned counsel for both the parties and perused the records and pleadings carefully. The facts in this case are similar to the one in **Kushal Singh Bhati vs. UOI and anr.** [O.A. No. 108/2007- decided today i.e. 01.08.2007] We have held that the applicant therein being a confirmed employee, the termination notice dated 16.05.2007 is not valid and the same is liable to be set aside and we set aside the same. The said O.A is allowed. Therefore, we hold that the applicant herein also cannot be terminated since he being a confirmed employee under the respondents.

5. In view of the above discussion, the O.A is allowed. The termination notice 16.05.2007 is hereby set aside. No costs.

Tarsem Lal
(Tarsem Lal)
Administrative Member

Jsv.

Kuldeep Singh
(Kuldeep Singh)
Vice Chairman.

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order dt 1/8/07
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