

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

**ORIGINAL APPLICATION NO. 225/2008
WITH
MISC. APPLICATION NO. 115/2008**

Date of order: 28.07.2010

CORAM:

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE MR. V.K. KAPOOR, ADMINISTRATIVE MEMBER**

Vishnu Shankar Nagda s/o Shri Dalchand Nagda, aged about 39 years, R/o 64, Mali Colony, Udaipur (Raj.). (At present working as Pump Operator, postal colony, sector 5, Hiranmagri, Udaipur)
- Office Address: Udaipur Division, Post & Telegraph Department, Udaipur)

...Applicant.

Mr. P. Bohra, counsel for applicant.

VERSUS



1. Union of India through the Secretary, Ministry of Communication, Department of Post & Telegraph, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Rajasthan Circle, Sardar Patel Marg, Jaipur.
3. The Senior Superintendent of Post Offices, Udaipur Division, P&T Department, Udaipur.

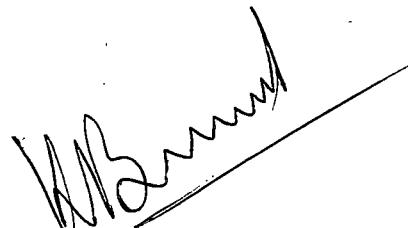
... Respondents.

Mr. Vikas Seoul, proxy counsel for
Mr. Vinit Mathur, counsel for respondents.

ORDER

(Per Hon'ble Dr. K.B. Suresh, Judicial Member)

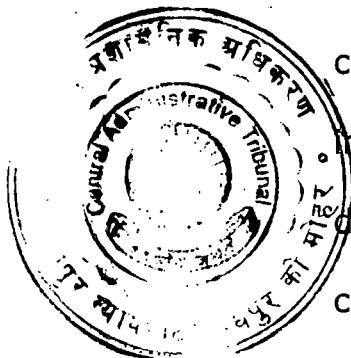
The applicant was appointed as Pump Operator on 01.07.1987 in the respondent department and apparently



continuing as Pump Operator even after 23 years have passed.

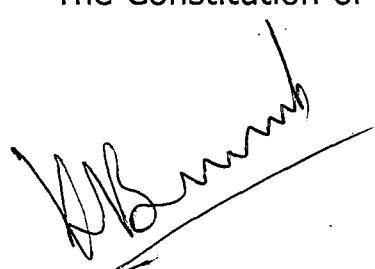
He claims for regularization and for pay scale of regular employee on the ground that otherwise it will amount to exploitation of human labour which is specifically prohibited by the Constitution of India. It cannot be denied that the part III & IV of Constitution of India has to be read together and in harmony. Directive principle of State policy must be in the background of any administrative authorities while decisions relating to citizens are being taken.

2. The learned counsel for the respondents would urge that the documents relating to the work performed by the applicant, even though it had been signed by his own officers, may not be correct. He would rely on the appointment order which would indicate that the applicant needs to work only for five hours a day i.e. in the morning and evening. The applicant would contend that even though the appointment mode may say so, he had to work in accordance with the requirements of the job and see to that water is supplied without any break. Therefore, he would say that he acted on the job on directions by controlling officers and the same controlling officers have signed the work report and therefore, at this stage the respondents cannot turn out and say their own work report is not correct. He would also rely upon the judgment of the Hon'ble High Court of the Rajasthan in **Mohammed Ali vs. State of Rajasthan & Anr.** reported in 2008 (3) CDR 1866 (Raj.) wherein his Lordship had considered the matter of Pump Driver who had worked for 20

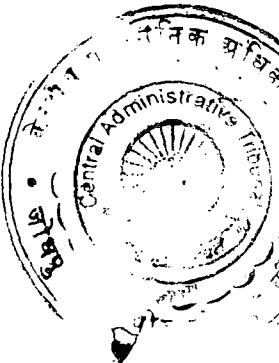


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years. Relying in paragraph '7' the Hon'ble Apex Court's judgment in Secretary, State of Karnataka vs. Uma Devi reported in (2006) 4 SCC 1, the Hon'ble Rajasthan High Court had come to the conclusion that this is a fit case for directing regularization as person therein had put in 20 years of service. At this point, learned counsel for the respondents would urge that earlier the applicant had filed a Writ Petition in the High Court at Jaipur Bench. Apparently, this Writ Petition was withdrawn as the Bench felt that the applicant should approach the department first. On this ground, the respondents would say that the present matter might be hit by res-judicata. The applicant would say that in compliance of the said order in the Writ Petition, vide annexure A/5 he had approached the department but could not get any relief from the department and therefore he was constrained to approach this Bench of the Tribunal. We are impressed by the judgment of the Hon'ble High Court which relied on Uma Devi's judgment. Therefore, we are inclined to find for the applicant that there cannot be organised slavery whereby for a mere pittance a man can be made to work for 23 years and continuing to do so on the ground that his services may be required only intermittently even though everyday. No executive Government can adopt such a view that it is possible for it to exploit human labour. The Government and its authority are also bound by essential human rights which we have committed to by signing in international documents. The Constitution of India also very clearly mentions that it is the

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duty of the Government to prevent any such means of bonded labour and exploitation of human beings. Therefore, the O.A. is allowed. The respondents are directed to consider the regularization of the applicant and grant of full pay to him in accordance with regularization within three months from the date of receipt of copy of this order. The O.A. is allowed to the extent noted above. No order as to costs. In the light of the above, M.A. No. 115/2008 is allowed.



Upow
(V.K. KAPOOR)
ADMINISTRATIVE MEMBER

WB
(DR. K.B. SURESH)
JUDICIAL MEMBER

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को द्वारा

जोधपुर राजस्थान, जोधपुर