

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 76/2009

Date of order: 20.09.2011

CORAM:

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER**

Raja Babu S/o Hussain Khan age about 32 years, R/o Village Ridmalsar, District Bikaner employed last employed as cook n the office of General Commanding Officer, 24 , Division, I.S.F. Camp, Cook House, Bikaner.

Mr. A.K. Kaushik proxy for ...Applicant.
Mr. B.Khan, counsel for applicant.

VERSUS

1. Union of India, through , Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. General Commanding Officer, 24, Division, I.S.F. Camp.Cook House, Bikaner.

... Respondents.

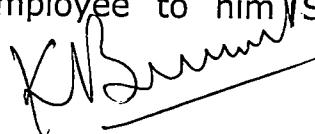
Mr. Kuldeep Mathur, counsel for respondents

ORDER (Oral)

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

Heard.

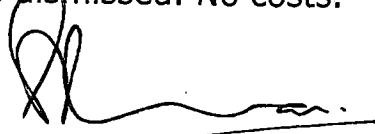
The applicant would submit that he was appointed in the post of Civilian Cook by an oral order of the Officer Commanding at 24 Infantry Division, ISF Camp, Cook House, Bikaner, in the capacity of a casual labour on 1.1.1997 and had continuously worked up to 20.09.2000. Within this period, according to him, he has completed 240 days of actual work. But without complying with the requirements under Section 25 G of the ^{I.D.} ~~Act~~, his service was terminated on 29.9.2000. He also stated that at the time of termination, the junior employee to him Shri Sajjan Kumar



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Harijan, Cook was retained in the service in violation of the provisions under Section 25 G of the I.D. Act.

Apparently, the applicant had approached the Hon'ble High Court of Rajasthan at Jodhpur against the decision of the Central Government Industrial Tribunal Cum Labour Court, where it was held that by this petition for writ a challenge is given to the award dated 25.2.2005 passed by the Central Government Industrial Tribunal Cum Labour Court, Jaipur, holding therein that the Officer Commanding, 24 Division, ISF Camp, Cook House, Bikaner, is not an industry, and therefore, his service could have been discontinued without adhering the preconditions prescribed for a valid retrenchment under the Industrial Disputes, Act. This was taken up in judicial review before the Hon'ble High Court. This argument is fundamentally misconceived. The Hon'ble High Court held that as per provisions of Section 2(j) of the Industrial Disputes Act., 1947, ^{that Act} is not applicable as the 24 Infantry Division is an armed battalion, and by no stretch of imagination can it be treated as an industry. The nature of job of the applicant is transitory in nature and fundamentally temporary, and therefore no benefit can accrue to the applicant. There is no merit in the OA and is dismissed. No costs.


(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER


(DR. K.B. SURESH)
JUDICIAL MEMBER

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