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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

Original Application No. 111 of 1990

Arvind Kumar Sharma

...Applicant

versus

Union of India & ors.

...Respondents.

Justice

Hon. Mr./Kamleshwar Nath, Vice Chairman.

Hon. Mr. K. Obayya, Administrative Member.

(Hon. Mr. Justice K. Nath, V.C)

This application under section 19 of the Administrative Tribunals Act, 1985 is for quashing a letter dated 14.12.1988 (Annexure 8) and for a direction to the respondents 1 to 5 to reinstate the petitioner as casual labour and to regularise his services with effect from the date of appointment of respondents Nos. 6 and 7 i.e. 1.7.85 and 19.12.1985.

2. The notices of this petition were sent to all the respondents. Appearance has not been made on behalf of respondents 6 and 7. Appearance on behalf of respondents 1 to 5 was made by Shri S. Verma, the learned Advocate. ~~The~~ Time in the past was given to file Counter. Shri S. Verma has made appearance today and says that he has no instructions. He has requested further time, but in view of the history of the case we do not consider it necessary to grant time. In the order dated 5.4.90, at the time of entertaining this petition, we had directed the respondents to show cause why the petitioner had not been appointed despite the communication dated 14.12.88

contained in Annexure -8. It was also indicated on a later date that the respondents may file reply on the date, whereupon the case was likely to be disposed of finally. No reply having been filed, we proceed to dispose of this case finally.

3. According to the applicant, he was appointed initially as an irregular casual labour on various occasions since 1977-1978 in the office of respondent No.5. He worked in that office last from 15.12.80 to 4.3.81 when he was transferred to the office of the Works Inspector III, wherefrom he was terminated orally, for the reasons not known on 26.3.1981. It is stated in para 6 (F) that while the petitioner has remained without employment ever since 26.3.1981, respondents Nos 6 & 7 both of whom were junior to the petitioner, were appointed and were regularised as casual labour respectively on 1.7.85 and 19.12.85. The petitioner went on making representations from 11.8.87 repeatedly till ultimately he received a reply dated 14.12.88 (Annexure 8) in which he was informed that his name had been recorded in the Live Staff Register of respondent No. 5 and that he would be re-employed at the time of requirement.

4. We invited the learned counsel for the petitioner to state how the claim could be considered to be within limitation in so far as the cause<sup>s</sup> which arose in 1981 and 1985 are concerned. This petition was filed on 4.4.90. The learned counsel says that the petitioner was not aware that persons junior to the petitioner had been given appointment and regularised and when he came to know about it, he started making representations. In the first place, ignorance of the petitioner in this regard is of no relevance. It is the duty of the petitioner to watch his own interest and act in accordance with the requirements of the law. Further, the earliest of the representations

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referred to in para 6 (E) of the petitioner is 11.8.87. Even from that date, the petition would be barred by time.

5. Even so, we do think that the petitioner has some cause in so far as the letter dated 14.12.88 (Annexure 8) is concerned. It is not known on what date the petitioner's name was placed on the Live Staff Register of respondent No. 5. The learned counsel for the petitioner refers to Annexures 12 and 13 which are photocopies of the envelopes purporting to contain certain letters written by the petitioner in 1989. The learned counsel has produced before us one of these envelopes, which is not sealed but which indicates that some employment notice No. 105/E/<sup>had been issued,</sup> Khalasi/Bharti, and it may be reasonably believed that it must have been issued before the date of the application, which is 12.10.89. The upshot is that according to the notice for employment there must have been vacancies of Khalasi. If there <sup>were</sup> vacancies of Khalasis then the conditions contained in Annexure 8 would appear to have been satisfied. In that situation, the petitioner should be entitled to an appointment if he is otherwise eligible in accordance with the applicable provisions.

6. This petition is therefore, disposed of with directions to respondents 3, 4 and 5 to examine the case of the petitioner in the light of Annexure 8 dated 14.12.88 and in case it is found that some persons were appointed as casual labours under respondent No. 5 since after the date when the name of the petitioner was placed on the Live Staff Register of the Casual labour, the petitioner shall be given an appointment as casual labour provided he satisfies the other criteria of appointment. In case no such appointment has been made as indicated above, the petitioner shall be given appointment in the next available vacancy. The opposite parties shall comply with these directions within three months from the date of receipt of

*[Handwritten signature]*

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copy of this judgment.

Adm. Member.

Vice Chairman.

Lucknow Dated: 25th June, 1990.