

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALIAHAFAD BENCH
CIRCUIT BENCH : LUCKNOW

Registration NC.C.A.23 of 1991

Perwez Ahmed Khan	Applicant
	Vs.	
Union of India & Others	Respondents

Hon'ble Mr.Justice U.C.Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon.Mr.Justice U.C.Srivastava, V.C.)

Feeling aggrieved by the termination from services which according to him is violation of the principle of 'last come first go', The applicant was appointed as Driver on 19.10.1987 in the Industrial Toxicology Research Centre, Council for Scientific & Industrial Research, Lucknow for a period of three months. Thereafter he was continued as Driver -cum-Cleaner with increment. It appears that initially his appointment was purely on daily wages, and this appointment on daily wages continued upto 19.1.1988. In the last appointment dated 10.5.88 it provides that this appointment will continue upto June, 1988 or till the regular Driver is appointed which ever is earlier. When the applicant re-appointed on 10.5.88 he was paid Rs.600/- per month and he was paid salary from contingency fund. Later on his salary was enhanced to Rs.900/- per month. i.e. Rs.750/- plus Rs.250/- D.A. as admissible to CSIR employees and for more or less treated as a regular employee

2. It appears that subsequently 3 posts were sanctioned and advertisement for the said posts was published and recruitment was done. The applicant also applied with two other persons who were juniors to him Sarvasri Ashok Pathak and Balkishan. The said two have been retained in service while the services of the applicant have been terminated. The applicant was not selected on the ground

that he was not found fit in the suitability test. But even thereafter he was allowed to continue as Driver-cum-Cleaner which is a lower post. Thereafter he was re-engaged as Driver from 16.5.1990 upto 31.12.90 on daily wages.

3. The contention on behalf of the applicant is that C.S.I.R. made a particular policy regarding regularisation of casual worker, and the copies of the same have been fixed on the record, and without considering the applicant's case for regularisation or even absorption in accordance with written policy they have advertised the post and made appointment without considering the case of applicant who is working for last several years. In the Trade Test which was taken in a particular manner he was not considered fit, yet his claim for regularisation or absorption could not be rejected. As a matter of fact after considering his case for regularisation and absorption against one post the applicant would have been appointed but the same was not done. The applicant also stated that vacancies are available but on some technical ground he was not continued. The action of respondents for making appointment of others and terminating the applicant's services cannot be said to be in conformity with the policy in accordance with law. Accordingly this application deserves to be allowed and the respondents are directed to consider the case of the applicant for regularisation, re-appointment, or absorption in preference to those who were appointed on casual basis or daily wages subsequent to his appointment, if there is no charge of misconduct against the applicant. Let this consideration be done within a period of 2 months from the date

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(B)

of communication of this order.

4. Accordingly this application is allowed in
above terms. No order as to costs.

Copy of the order may be issued to the party's counsel
within 3 weeks hereof.

Janayat
Member (A)

lu
Vice-Chairman.

8th Nov. 1991, Lucknow, 1991.

(sph)