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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW

D.A. No. 61/92

Chhotey Lai

...

Applicant

vs.

Union of India & others

...

Respondents

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon. Mr. K. Obayya, A.M.

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

1. The applicant was appointed as a Casual Labour in the year 1978 in the Postal Department. The services of the applicant were terminated on 29.6.1987 against which the applicant filed a claim petition which was allowed by this Tribunal vide its order dated 5-1-1991. Despite service, no Counter Affidavit has been filed as such the case is being disposed of finally as it appears that respondents are not interested in filing Counter Affidavit.

2. The Tribunal, vide its above mentioned judgement held that the termination was manifestly illegal being in violation of procedure prescribed under Industrial Disputes Act. The termination order was quashed and it was observed that the applicant will be deemed to be in continuous service for other purposes than salary. It was left to respondents to consider his case for regularisation.

3. Accordingly, the applicant was not permitted to carry on the duties upto 10-10-1991. He moved another application to the Chief Post Master General. By means of this application, it was requested that the applicant may be taken in service and he may be given salary from 9-7-1991.

4. The respondents were silent upto 24-10-1991 and that on 25-10-1991 issued an order stating/as per orders passed

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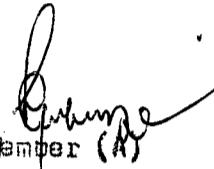
by the Hon. Tribunal, the applicant will be deemed to be in continuous service for other purposes and he will not be entitled to get the salary from the date of termination.

The applicant will be allowed to carry on his duties and he will get his salary from the date of his joining. In the mean-time junior to the applicants Shri Faiz Lal and Ravi Kumar and Ram Sahakar were regularised and they are getting higher salary. When the applicant came to know about this fact, he moved an application in this behalf. No relief was given to him and that is why he has approached the Tribunal. As has been stated above, the direction was given to him by this Tribunal and the applicant being in continuous service obviously <sup>was</sup> and entitled for the salary w.e.f. from the date of the order dated 3-7-1991 and the order of the Tribunal is clear that he will not be entitled for the salary, even if the Tribunal's order was issued later on. The applicant can not be deprived of his salary and continuity due the lapses on the part of the respondents.

5. It appears because of the delay that the applicant's case for the regularisation was not considered, but this was no ground for not considering the case. The order passed by the Tribunal can not be circumvented or bypassed. Accordingly, the respondents are directed to consider the case of the applicant for regularisation. In case any person junior to him is regularised, the applicant shall also be regularised with effect from that date and other benefits shall also be given to him. The case of the applicant shall be considered for regularisation within a period of 2 months from the date

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of communication of this order. If no regularisation has taken place in accordance with orders passed by this Tribunal, the applicant shall be regularised with effect from 25-10-1991, within this period. With these observations this application is disposed of finally with no order as to the costs.

  
Member (A)

  
Vice Chairman

Lucknow

Dated: 11th March 1993

am/ smc