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**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH**

(2) **ORIGINAL APPLICATION NO.423 OF 2005**  
This the day of 18 September 2005

**HON'BLE SHRI S.P. ARYA, MEMBER (A)**  
**HON'BLE SHRI M.L. SAHNI, MEMBER (J)**

Umesh Kumar Tiwari ..... ..Applicant.

By Advocate: Shri R.C. Singh.

Versus.

Union of India & Others. .... ..Respondents.

By Advocate: Shri Rajendra Singh.

**ORDER**

**BY HON'BLE SHRI M.L. SAHNI, MEMBER (J)**

1. This O.A. has been filed by the applicant seeking for the following relief's:-

(a). Issuing/passing of an order or direction to the Respondents to allow the applicant to appear in the combined departmental examination for educationally qualified regular Group 'D' employees and casual workers in the Passport Organization scheduled to be held on 4<sup>th</sup> September 2005 and to regularize the services of the applicant on the post of Lower Division Clerk, if declared successful in the aforesaid examination.

(b). Issuing/passing of any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.

(c.). Allowing this Original Application with cost."

2. After the notices were issued to the official respondents their counsel appeared and sought for time to file Counter-Affidavit. The learned counsel for the applicant has prayed for interim relief which has stated in the O.A. is to the following effect:-
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" The respondents be directed to allow the applicant to appear provisionally in the combined departmental examination for educationally qualified regular Group 'D' employees and casual workers in the passport Organisation scheduled to be held on 4<sup>th</sup> September 2005 and to consider his case for regularization on the post of Lower Division Clerk, if declared successful in the aforesaid examination and to issue appropriate orders in this regard."

3. On perusal of main relief sought in this case and the interim relief being prayed for, at this stage <sup>it found</sup> is ~~is~~ ver-batim the same, meaning thereby, if the interim relief is granted the O.A. shall stand allowed. However, considering the urgency as expressed on behalf of the applicant, that the date fixed for holding the examination on 4.9.2005 is very close and allowing the respondents to file the Counter-Affidavit would caused irreparable loss to the applicant, who ~~is~~ denied to participate in the examination despite being fully qualified and eligible to take the examination ~~shall be deprived~~ <sup>and</sup> ~~for~~ <sup>him</sup> the opportunity having become available to him owing to his knowledge about the letter dated 16.8.2005 whereby, the competent authority has approved for holding a combined departmental examination for consideration of all educationally qualified regular Group 'D' employees and casual workers working in the Passport Organization against the existing vacancies at the level of Lower Division Clerks, we have heard the him and <sup>the</sup> learned counsel for respondents at length.
4. The case of the applicant is that he was engaged as Daily-Rated Casual Worker in the Passport Office, Lucknow on



27.02.1992. He was regularised as casual worker on 25.12.1994 in pursuance of interim order passed by this Tribunal in O.A.No.999/1993 dated 24.12.1993. He was also conferred temporary status w.e.f. 01.09.1993 vide order dated 05.05.1993, which, however, was withdrawn on 24.8.1993 on the ground that the applicant and some other casual workers had not been engaged through the Employment Exchange. The applicant and all other affected persons, then, filed an O.A.No.551/1993 and the order dated 24.08.1994 had been stayed. On 01.09.1998, when the services of the applicant were terminated on the ground of his having been involved in a Criminal case, he filed an O.A.No.498/1998. O.A.No.551/1993 was allowed but the <sup>Respondents</sup> filed a Writ Petition against the said order of this Tribunal and in the meanwhile, the applicant was discharged in the criminal case against him.

5. During the pendency of the Writ Petition <sup>No. 1516 (SB)</sup> filed by the respondents, temporary status was restored on 21.01.2004 in respect of all other employees excepting the applicant <sup>Writ is still pending.</sup> and the <sup>pendency.</sup> O.A. of the applicant (O.A.No.498/1998) was finally disposed of with the direction to the respondents to consider the case of the applicant for re-instatement and restoration of temporary status but the respondents were <sup>ed</sup> fail to comply with the those directions, hence, the applicant filed C.C.P.No.60/2004 which is still pending. Despite directions of this Tribunal, no compliance-report sofar has been filed in the C.C.P.No.60/2004 on the ground that the respondents have


filed a Writ Petition No.214 (SB) of 2005 against the order dated 05.01.2005 which was disposed of with the direction to comply-with the order of the Tribunal but still the respondents have not re-Instated the applicant and hence, applicant is still awaiting for his re-instatement. It is submitted on behalf of the respondents that from the perusal of the O.A. and the copies of documents annexed thereto, it is made-out that since the applicant is presently not working even as a casual worker, he can not avail<sup>of</sup> the opportunity as notified vide letter dated 16.8.2005 (Annexure-14). Para-2 of this Annexure reads as follows:-

" All regular Group 'D' employees and causal workers who have passed matriculation examination or above are eligible to appear in this examination. Applications in the enclosed format should reach the undersigned latest by 19.08.2005, duly forwarded by the concerned Passport offices. The Passport Offices should satisfy themselves about the authenticity of the certificates given by the candidates for educational qualifications, categories (Gen/SC/St) and date of birth before forwarding them to the undersigned alongwith the applications. The certificates should be duly attested by the Concerned Passport Officer."

6. Learned counsel for respondents, however, submitted that the date of receiving the application from those casual worker who, are in the employment of the Central Passport Organization has already expired as stated in the Annexure-14 i.e. 19.8.2005 therefore, allowing the applicant by this Tribunal at this stage will tantamount to extending the said date.



8. Let Counter-Affidavit be filed within 4 week and Rejoinder-Affidavit thereto <sup>be filed</sup> within 2 weeks thereafter, and the case be listed thereafter on 26.10.05.

  
(S.P. ARYA)  
MEMBER (A)

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