

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

ORIGINAL APPLICATION NO.436 OF 2005

This the day of 24 September 2005

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

Upendra Kumar Misra, aged about 36 years son of Jagannath Misra resident of 2/257, Sector H, Jankipuram, Lucknow (lastly working as Dally Rated Casual Worker in the Passport Office, Lucknow 226001).

...Applicant.

By Advocate: Shri R.C. Singh.

Versus.

1. Union of India through the Secretary, Ministry of External Affairs, New Delhi-110011.
2. Chief Passport Officer-cum-Joint Sectary, Government of India, Ministry of External Affairs (CPV Division), Patiala House Annexie, New Delhi.
3. Passport Officer, Government of India, Ministry of External Affairs, Nav Chetna Kendra, 10 Ashok Marg, Lucknow-226001.

...Respondents.

By Advocate: Shri Rajendra Singh for Shri Ragnendra Mishra.

ORDER

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

1. In this O.A. the applicant has requested for issuing direction to the respondents to allow him to appear in the Combined Departmental Examination scheduled to be held on 4.9.2005 for Educationally qualified regular Group-'D' employees and casual workers in the Central Passport Organization. He has also sought for relief regarding regularization of his services

on the post of Lower Division Clerk, if he is declared successful in the said examination.

2. The O.A. was filed with the request that since the matter was extremely urgent, therefore, the O.A. be taken-up on priority today for consideration of interim relief. Notice of the application had already been served on the counsel for the respondents, on whose behalf Shri Rajendra Singh appeared for the Additional Standing Counsel Shri Ragnavendra Mishra, whose Memo of appearance is filed.
3. We have heard the learned counsel for the parties and while considering the prayer of the applicant for interim relief, we have found that the main relief and the relief being sought by way of the interim order is ver-batim the same. We, therefore, propose to dispose of this O.A. at admission stage.
4. The Learned counsel for the applicant has submitted that the applicant was engaged as Daily rated casual worker in the passport Officer, Lucknow but when he fell ill on 24.10.1992 and could not attend the duties; he reported on 11.3.1993 to resume the duties but was not allowed to do so. The applicant, therefore, filed an O.A.No.194/1993 praying for direction to the respondents to allow him to join duties and also to consider his case for regularization. It is stated on behalf of the applicant that despite the passing of the interim order dated 29.4.1993, the applicant was not allowed to join and in the meanwhile on 26.12.1993 the Authorities scheduled to hold Special Qualifying Examination for regularisation of the casual workers. The applicant then

moved another application for interim relief in O.A.No.No.194/1993 and on the basis of order passed thereon the applicant appeared in the said examination.

5. It is not disclosed in the O.A. as to what happened to the result of the said examination but the O.A. was finally disposed of with the direction that whenever vacancies arise the applicant would be considered therefor. The applicant, against the order passed on 12.3.1997, filed a Review Petition, which was, dismissed on 29.2.2000. The applicant when learnt that some other person who had been engaged subsequent to him and whose services have also been terminated, was engaged, he filed a Contempt Petition against the respondents for non-compliance of the order dated 12.3.1997. This C.C.P. was also dismissed on 4.10.2004. The applicant then approached the Hon'ble High Court by filing Writ petition No.1752 (SB) of 2004, which is still pending and no interim order even has been passed in the said Writ Petition.
6. It is contended on behalf of the applicant that since the respondents are going to hold again an examination on 4.9.2005 vide their Circular dated 16.8.2005 (Annexure-A-10) for regularization of casual workers against the existing vacancies at the level of L.D.C. and since he is also a casual worker fully qualified and eligible to appear in the said examination, if he is not allowed to do so, great prejudice would be caused to him.



7. According to the applicant after learning that the examination is being held on the basis of Annexrue-A-10, he submitted an application to the respondents requesting them to allow him to appear in the said examination but since nothing happened therefore, considering the urgency, he has approached this Tribunal for redressal of his grievance.
8. A perusal of the facts as stated in the O.A. and briefly stated above, it become abundantly clear that the applicant is not in the engagement of the Central Passport Organization since after 24.10.1992, though he has been agitating his claim of re-engagement and regularization since 12.3.1993. His Writ Petition of 27.11.2004, in the Hon'ble High Court, is still pending. Despite the fact that once he was allowed to appear in the Special Qualifying Examination on 26.12.1993 during the pendency of his O.A.No.194/1993, which was finally dismissed on 12.3.1997, Review Petition against which was also dismissed on 29.2.2004 and the C.C.P. filed on the basis of the said order was also dismissed on 4.10.2004, he is still not engaged. Aggrieved, he filed the Writ Petition in the Hon'ble High Court on 27.11.2004 but no interim relief could be obtained by him.
9. Annexrue-A-10 is Circular issued by the Deputy Secretary (PV), Ministry of External Affairs, Government of India addressed to all the Passport Officers asking them to forward the names of all regular Group-'D' and casual workers who, are educationally qualified latest by 19.08.2005 to appear in the Combined Departmental Examination scheduled to be



held on 4.9.2005 for filling-up existing vacancies at the level of LDC in the organization.

10. In the case of the applicant, he is not borne on the strength of any Passport Organization even as casual worker even to date. According to the applicant him-self, he could not attend the duties after 14.10.1992, but when he become fit to resume the duties and reported on 11.3.1993 for the purpose, he was not allowed to do so. We fail to understand as to how he is entitled to participate in the Combined Departmental Examination, which is meant for only those educationally qualified causal worker who are working with the Passport Officers as on 16.08.2005, when the Circular Annexure-A-10 was issued. From the facts as disclosed by the applicant himself, we find hardly any merit in his claim for issuing any direction to the respondents to allow him to take examination in terms of Annexure-A-10.

11. The O.A. is, therefore, found without merit and hence is liable to be dismissed at the admission stage. The O.A. is dismissed without any order as to costs.



(M.L. SAHNI)
MEMBER (J)



(S.P. ARYA)
MEMBER (A)

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