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CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

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Date of Order:

O.A. No. 137 of 1990

Kashi Prasad Pandey

Applicant

versus

Union of India & others

Respondents.

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

Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. A.B. Gorthi, Adm. Member)

This application is for quashing the order terminating the services of the applicant and for a direction to the respondents to allow the applicant to continue to work as Steno Typist and to pay him salary as a regular employee with effect from 30.3.1990.

2. Shri Kashi Prasad Pandey, the applicant states that he worked as a casual labour in the Telecom department from 1.4.82 to 31.3.1983 for about 35 days. In 1988 he was appointed as a Steno Typist on casual basis in the office of Telecom, Engineering Division, Faizabad. He continued to work in the said appointment till 30.3.90, when the services of the applicant were terminated. It is alleged that in between, from 1.5.1989 to 31.10.89, he was shown as an employee of a contractor, although he continued to perform the same duty. The applicant referred

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to certain official correspondence (which he seems to have unauthorisedly got possession of) to show that the office did require the services of a Steno Typist to be engaged on regular basis. He, thus, contends that the termination of his services is illegal and that he should be put back on his engagement as a Steno Typist and his appointment should also be regularised.

3. The respondents contested the claim of the applicant from every angle; firstly they attempted to show that he had never worked in the department as a casual labour in 1982 and that the work certificate procured by him was given to him by his relative whose complicity in the matter is under investigation. In fact, during 1982, the applicant was a regular student of B.A. Part I in a local college and could not have been a casual labour also simultaneously. Later, from 1988 to 1990 although he worked for some time as a Steno Typist on casual basis and was ^{by} sometime engaged through a contractor, he acquired no right to hold that post permanently. In any case, he could not be employed on regular basis as there was a total ban on such employment. Moreover, he proved to be untrustworthy as he surreptitiously removed official correspondence for his personal use.

4. At the very outset we disregard the respondents' contention that the applicant was engaged as Steno Typist by a Contractor and not by the department because the fact remains that he continued to serve the department, although he was paid through the contractor. A very critical

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view of such system of contract labour was taken by the Hon'ble Supreme Court in 'Catering Cleaners of Southern Railways vs. Union of India' (A.I.R. 1987, SC, 777). It was held therein that the system was archaic which should not find a place in a social welfare State.


5. As regards the respondents' contention that there was no sanctioned post and that there was a ban on fresh recruitment ^{of} Steno Typist, the applicant produced some correspondence which shows that there was a requirement of the services of Steno Typist in the office of respondent No. 4 and that the respondents already undertook the process of promoting some departmental class IV employees to fill up ^{the} Class III post of Steno Typist. In any case, whether a post is available with the respondents or not and whether they are prevented from making any fresh recruitment due to the Government's ban are the matters which must be determined by the department itself.

6. There is no doubt that the respondents utilised the services of the applicant for more than a year and a half. We, therefore, direct that the respondents shall, before giving appointment to any fresh candidate, as Steno Typist, will take the services of the applicant, be it on a casual or ^{or temporary} regular basis, keeping in view the experience gained by him in the department. Thereafter, the regularisation of his services will, of course, be governed

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by the extant rules.

7. The application is thus, partly allowed in the above terms. We make no order as to costs.


A.M.


V.C.

Shakeel/

Allahabad Dated: 3.2.92