

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH**

O.A. No. 353 of 06

Date of order : 30.5.08

C O R A M

**Hon'ble Shri Shankar Prasad, Member (A)
Hon'ble Ms. Sadhna Srivastava, Member (J)**

Subhesh Kumar Sahu, s/o Shri Sahdeo Sah, r/o village – Badipur, P.O. Badipur,
P.S. Naubatpur, District – Patna.

....Applicant

By Advocate : Shri Satyendra Prasad

Vs.

1. The Union of India through the Director, Department of CBI, New Delhi.
2. Superintendent of Police Anti Corruption Branch, CBI, Ranchi.
3. Duty Officer, O/o Superintendent of Police, Anti Corruption, CBI, Ranchi.

....Respondents

By Advocate : Shri S.K. Tiwary

O R D E R

Sadhna Srivastava, M | J]:- The applicant is claiming a direction to the respondents to re-engage him or to pass an order of repatriation.

2. The facts, as alleged in the OA, are that the applicant joined as Home Guard in the office of the District Commandant, Home Guards, Ranchi on 18.10.1982. Thereafter, it is alleged that he was placed at the disposal of the S.P. C.B.I, Ranchi with effect from 4.1.2002 to work as driver. He has been admittedly a daily wager receiving payment at the rate of Rs. 95/- per day. The daily wage was increased to Rs. 110/- some time in the year 2004. The applicant alleges that the office of the Superintendent of police C.B.I Ranchi stopped taking work from



him with effect from 6.5.06. He is, therefore, claiming re-engagement or an order from the Superintendent, CBI, Ranchi repatriating him to Commandant, Home Guard, Ranchi.

3. The respondents have filed written statement stating therein that since the applicant was a daily wager, there is no obligation on them to take further work from him. However, they have not stated anything as to why they have not passed the order of repatriation.

4. We have heard the learned counsel for the parties and perused the pleadings.

5. On careful perusal of the pleadings, it is clear that the applicant was appointed as Home Guard some time in the year 1982. The Home Guards is a voluntary organization. He was placed at the disposal of Superintendent, CBI, Ranchi as daily wager. Assuming for the sake of assumption that the applicant absented from duty with effect from 6.5.06 as alleged in para 2 of the written statement. The Superintendent of Police, CBI, Ranchi was bound to inform the District Commandant, Homeguards and saying that his services are not required. The applicant should have also approached the Home Guards claiming his legal rights, if any. The applicant admittedly was not appointed as Central government employee. He was at best borrowed by the Central government agency to work as driver on daily wages. He was to receive payment on daily wage basis for the days

he performed the duties. The employer in the case of such a daily wager is not obliged to take work from him nor such a daily wager acquires any legal rights to claim regular employment or regularization of service. Therefore, even assuming that he was originally employed as daily wager in the office of Superintendent, CBI, Ranchi, this Tribunal will not issue direction for re-engagement on the ground that he had not acquired any legal right. Thus, in our considered opinion, the application is mis-placed.

6. We do not consider it necessary to enter into the controversy whether the applicant voluntarily did not perform the duties with effect from 6.5.06 or that the borrowing department stopped taking work from him. The applicant in either case will not be entitled for wages for the reason being that he was attached with the Superintendent, CBI, Ranchi on the condition that he will be entitled for wages for the days he performed duties. Therefore, it was in his own interest to report to the District Commandant, Home Guards immediately on or after 5.5.2006. He also did not do so. Thus, he has lost his claim for wages.

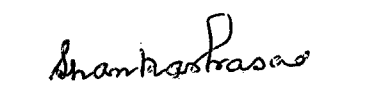
7. In the circumstances, we consider that he may be deemed to have been returned to the District Commandant, Homeguards from the date of judgment by this Tribunal. The applicant can seek deployment in his parent department, if any legal right has accrued to him there. We are of the opinion that no direction can be issued to the respondents to re-engage him or regularize his services as



driver. There is no ground available to him for such a direction.

8. The OA lacks in merit. Resultantly, it is dismissed as such, without any order as to the costs.


[Sadhna Srivastava] M [J]


[Shankar Prasad] M [A]

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