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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 672/89

~~Ex.AxxxNo.~~

198

DATE OF DECISION 21.11.1989

Shri W.K.Dongre Petitioner

Shri D.B.Wathankar Advocate for the Petitioner(s)

Versus

Shri V.Seshadri,
Additional Industrial Adviser Respondent

Shri J.G.Sawant Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.B.Mujumdar, Member(J)

The Hon'ble Mr. M.Y.Priolkar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*

[Signature]

(3)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.672/89

Shri W.K.Dongre,
Peon,
Directorate General of
Technical Development,
(Regional Office),
New Administrative Building,
IIIrd Floor, 'B' Wing,
Bombay - 400 032. .. Applicant

vs.

Shri V.Seshadri,
Additional Industrial Adviser,
Ministry of Industry,
Directorate General of
Technical Development,
(Regional Office),
New Administrative Building,
IIIrd Floor, 'B' Wing,
Bombay - 400 032. .. Respondent

Coram: Hon'ble Member(J) Shri M.B.Mujumdar
Hon'ble Member(A) Shri M.Y.Priolkar

Appearances:

1. Mr.D.B.Wathankar
Advocate for the
Applicant.
2. Mr.J.G.Sawant,
Advocate for the
Respondent.

ORAL JUDGMENT:

(Per M.B.Mujumdar, Member(J)) Date: 21.11.1989

Heard Mr.D.B.Wathankar, advocate for the applicant and Mr.J.G.Sawant, advocate for the respondent. As directed by us on 19.10.1989, the respondent has filed their brief reply opposing admission.

2. The relevant facts for the purpose of this order are these: The applicant is a member of the Scheduled Caste and he has passed 9th standard examination. He was appointed as a daily wage labourer in the office of the respondent. His name was sent by the Employment Exchange.

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On 31.8.1989 or thereabout he was orally asked not to report for duty from 1.9.1989. The applicant has challenged the said direction by filing this application.

3. However, the respondent has given a copy of the instructions issued by the Department of Personnel, Public Grievance and Pension in view of the judgment of the Supreme Court delivered on 17.1.1986 in a writ petition filed by Surinder Singh and Ors. against the Union of India. Instruction No.(x) is important in this case and it says,

"The regularisation of the services of the casual workers will continue to be governed by the instructions issued by this Department in this regard. While considering such regularisation, a casual worker may be given relaxation in the upper age limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age limit for the relevant post."

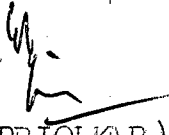
4. According to the respondent, in the beginning of October, 1988 a letter dated 23.9.1988 was received in its office inter-alia referring to the instructions issued by the Ministry of Personnel, Public Grievances and Pension (Department of Personnel & Training) advising to engage daily wage labourers who had passed minimum 8th class from any Govt. School and whose age was less than 25 years and that the services of the unsuitable daily wage labourers may be dispensed with immediately. The applicant was informed of the implication of the letter on 3.10.1988. Thereafter he made a representation dated 5.10.1988 requesting that his

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services may be allowed to continue and be considered for regularisation in due course. The respondent wrote to the Head Office suggesting that the applicant may be allowed to continue. The applicant had also addressed a letter dated 2.6.1989 to the Hon'ble Minister for Industry requesting for his regularisation. But the respondent received a letter from the head office informing that the services of the applicant cannot be regularised as the upper age limit prescribed for Group 'D' post was 25 years though it was relaxable by further 5 years in case of Scheduled Caste, Scheduled Tribe candidates. As the applicant was 34 years when he was initially appointed on 2.6.1986 his services are discontinued from 1.9.1989.

5. Then the applicant has given two instances to show that his juniors are continued in service. One Mr. Dabolkar who is an SC candidate is appointed in 1987 but he was only 26 years old on that date and it is difficult to find any fault with his continuance in service. Then one Mr. Patil is appointed on 5.9.1989 but his age is only 25 years. Hence it is not possible to accept the submission of the applicant that he has been wrongly discriminated.

6. We, therefore, find no substance in this application. No purpose will be served by admitting the application when the position is quite clear. Hence we reject the application summarily with no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(M.B. MULJADAR)
Member(J)