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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY
CAMP AT NAGPUR

Original Application No.73/89

Turabali Akbarali,
C/o.Akbarali Fidahussain,
R/o Itwari, House No.227,
Machisath, Nagpur

... Applicant

V/s

1. Union of India, through
The Secretary,
Defence Production,
Ministry of Defence,
New Delhi.

2. Ordnance Factory Board,
10A, Auckland Road,
Calcutta, through
its Chairman/Director General,
Ordnance Factories at Calcutta.

3. Ordnance Factory, Defence Project,
Ambajhari, Nagpur through its
General Manager.

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri U.C.Srivastava
Hon'ble Member (A), Shri P.S.Chaudhuri

Appearances:

Mr.R.G.Chaubal, Advocate
for the applicant and
Mr.Ramesh Darda, Advocate
for the respondents.

JUDGEMENT:

Dated : 12-7-91

(Per. U.C.Srivastava, Vice-Chairman)

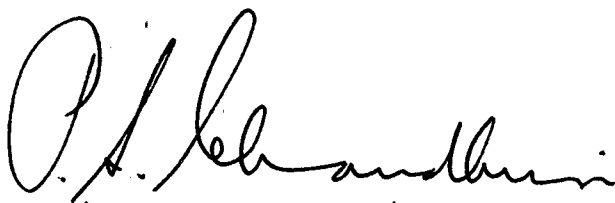
The applicant who admittedly a physically handicaped person being deaf and dumb was appointed under the Government scheme for rehabilitating handicaped persons. The applicant was appointed as a Casual Labourer in the Ordnance Factory vide order dated 22.12.1984. As per the allegation of the applicant the vacancy against which the appointment was made was a permanent vacancy though according to the respondents it was against a casual vacancy and not a regular vacancy. The initial appointment was for 89 days and the said appointment was continued in this manner till the impugned terminal order dated




26.9.1988 was passed. The appointment was made to meet the administrative requirements. He was brought on regular appointment against the same vacancy vide order dated 16.10.1987. According to the applicant this abrupt termination from the service will amount to retrenchment and is a result of victimisation of his being Member of the Labour Union and his services could not have been terminated after four years after he attained the status of more or less a permanent employee. The respondents have stated that the applicant continued to work from 12.1.1985 upto 16.10.1987 with broken period in casual vacancy and on 19.10.1987 he was appointed against a clear vacancy of Labour Unskilled on regular establishment. As the right was reserved the General Manager to terminate his services and consequently his services were terminated as his performance was not satisfactory and in order to give him a chance to improve his probationary period was extended for six months vide order dated 19.4.1988 but as there was no improvement his services were terminated. No such order has been filed by the respondents and further appointment ~~xxx~~ letter dated 16.10.1987 on which the reliance has been placed, which itself has provided that six months period of the service except in case of appointment of Casual Labour will be treated as probationary period which will be extended as and when necessary. The applicant has not been told as to what is wrong with the performance in the working of a *physically handicapped* blind man who could have performed a particular type of duty. A *physically handicapped* blind man was taken into service under the scheme of the Government of India which it was bound to do so the country being a welfare state and the directive principle of the State provided in the Constitution of India enjoins upon the State to make provisions for such things. The applicant having been appointed against a regular vacancy and have attained a temporary status

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long ago his services could not have been terminated by saying that his services are no longer required when the scheme vacancy and posts were all existing. Not a word has been said as to how the work of the applicant was unsatisfactory and what sort of ^{advice} ~~work~~ was given to him to improve ⁱⁿ ~~the~~ matter. Nothing like that appears to have been done. The order passed is obviously arbitrary and in violation of the rules. In the circumstances the termination order cannot stand and the application is accordingly allowed and the termination order dated 26.9.1988 is quashed and the applicant will be deemed to be continued in the services with all the consequential benefits. However there will be no order as to costs.


(P.S. Chaudhuri)
Member(A)


(U.C. Srivastava)
Vice-Chairman