IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.
....

Date of Decision: 29.4.94.

OA 665/92
(OA 573/89)

JAGDISH PRASAD   ... APPLICANT.

    Vs.

UNION OF INDIA AND ANR.   ... RESPONDENTS.

CORAM:

HON'BLE MR. GOPAL KRISHNA, MEMBER (J).
HON'BLE MR. O.P. SHARMA,   MEMBER (A).

For the Applicant   ... SHRI R.R. KUMAWAT.

For the Respondents   ... SHRI U.D. SHARMA.

PER HON'BLE MR. GOPAL KRISHNA, MEMBER (J).

           Applicant Jagdish Prasad in this application u/s 19 of the Administrative Tribunals Act, 1985, has mainly challenged the impugned order Annexure A-1 dated 10.7.89, by which the services of the applicant as Safaiwala were dis-engaged with effect from the afternoon of 10.7.89 in pursuance of the judgement delivered by the Jodhpur Bench of the Tribunal on 5.6.89 in OA 329/87 (Jagdish Prasad Vs. UOI & Ors.). The applicant is a member of Scheduled Caste. He was given appointment as a Safaiwala in the office of the Deputy Director, Central Government Health Scheme, Jaipur, from 2.7.87 to 18.7.87 vide Annexure A-2. When his services were terminated on the afternoon of 18.7.87, he filed an OA 329/87, which was rejected by the Jodhpur Bench of the Tribunal on 5.6.89. However, the applicant was given an appointment by an order dated 24.8.87 engaging him as a Safaiwala from 31.7.87 to 18.11.87 vide Annexure A-3. Thereafter, the applicant was continued in service. By order dated 26.6.89 the applicant was again appointed alongwith others on adhoc basis.

2.   It is stated that the order Annexure A-1 has been issued in ignorance of the decision of the Jodhpur Bench of the Tribunal dated 5.6.89 and as such the administration intended to revoke th

order as it cannot have a over-riding affect on the decision of the Tribunal dated 5.6.89. It is also stated that the applicant cannot be regularised against the regular post of Safaiwala at unless he is selected in accordance with the relevant recruitment rules.
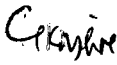
3.   We have heard the rival contentions of the parties.

4.   The order at Annexure A-4 dated 26.6.89 was issued suo-moto by the respondents in accordance with the DGHS letter No.A.35012/9/84-DGHS.II dated 21.6.89. By this order the applicant was also appointed alongwith other persons mentioned therein. It stipulates that the appointees will be entitled to the same pay scale and allowance and same benefits of leave, maternity leave, increment etc. on completion of one year service and other bene-fits of service as are admissible to the employees appointed on regular basis on their respective posts and scale of pay. There will be no break in their service and they shall be deemed to have continued in service ever since the day of their first appointment/engagement. It further stipulates that the day on which they did not actually discharge their duties on account of break etc.,the same will be treated as leave to which they will be entitled at par with regular employees. It was further clarified that such employees will continue to be treated as adhoc appointees and their adhoc service will not create any right in their favour for being brought on regular establishment. It is pleaded by the respondents that the order dated 26.6.89 (Annexure A-4) was issued by the administration in ignorance of the decision rendered by the Jodhpur Bench of the Tribunal on 5.6.89 in OA 329/87 (Jagdish Prasad Vs. UOI & Ors.) and as such the administration has now revoked the same by passing the order dated 10.7.89 dis-engaging the applicant from service with effect from the afternoon of 10.7.89.

5.   In view of the peculiar facts and circumstances of the present case and the stipulations contained in the order dated

26.6.89 (Annexure A-4). we consider it just and proper to direct
the respondents to consider the applicant's case for re-engagemer
as a Safaiwala as and when there is a vacancy for the same. The
applicant shall not be entitled to any back-wages on being re-
engaged in pursuance of these directions. With these observatior
the present application stands disposed of with no order as to
costs.

(O.P. SHARMA)
MEMBER (A)

(GOPAL KRISHNA)
MEMBER (J)