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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH
J A I P U R.

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OA 605/89

Date of Order: 13.2.1996

Jawahar Lal

: Applicant

Versus

Union of India & Others

: Respondents

Mr. R.C.Gaur, counsel for the applicant

Mr. K.N.Shrimal, counsel for the respondents

CORAM:

HON'BLE SHRI GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)

O R D E R

(PER HON'BLE SHRI GOPAL KRISHNA, VICE CHAIRMAN)

In this application under Section 19 of the Administrative Tribunals' Act, 1985, the applicant Shri Jawahar Lal has assailed his verbal removal from service as a casual labour in the Department of Telecommunication at Kota w.e.f. 1.7.1988.

2. We have heard the learned counsel for the parties and have also gone through the records of the case carefully.

3. The respondents have taken a preliminary objection to the application as to the limitation.

The O.A. was filed on 31.7.1989, whereas, the verbal order of termination is dated 1.7.1988. However, with the rejoinder to the reply filed by the respondents, the applicant has annexed a copy of the representation

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dated 25.3.1989 filed by the applicant against his termination. In these circumstances, we are of the view that 18 months time was available to the applicant for filing the application and therefore, the application is not barred by ~~the~~ limitation.

4. The undisputed facts are that the applicant was appointed in the month of August, 1979 as a Casual Mazdoor. He remained sick from 1.11.1986 to 5.3.1988. He was re-engaged in the month of March 1988 and he worked till 30.6.1988 and he was then verbally removed w.e.f. 1.7.1988. The fact as stated by the respondents in their reply that the applicant was re-engaged in March, 1988 has not been specifically denied/controverted in the rejoinder to the reply filed by the applicant. The main contention of the learned counsel for the applicant is that the verbal order of dis-engagement from service in respect of the applicant is bad in law because it is punitive in character and is stigmatic also in so far as the considerations that he remained absent from duty from 1.11.1986 to 5.3.1988 intentionally and that he had in fact abandoned his services, weighed heavily in their mind while removing him from service. In any case, no verbal order of termination can be passed in the case of a Government servant.

5. Keeping in view all the facts and circumstances of the present case, we are of the opinion that the verbal order of termination in respect of the applicant

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in this case is not sustainable. The respondents have stated in the reply that they are ready and willing to engage the applicant as a casual labour in terms of the proceedings before the Assistant Labour Commissioner at Annexure A-2 i.e. his absorption as casual labour as and when the vacancy arises according to the seniority of the casual workers.

6. In view of these circumstances, we set-aside the verbal order of the applicant's removal from service w.e.f. 1.7.1988. The applicant shall however not be entitled to any back wages. In the circumstances, we direct the respondents to take the applicant back on duty as casual labour as soon as he reports for duty with the certified copy of this order.

7. The OA is disposed of accordingly with no order as to costs.


(O.P. SHARMA)
MEMBER (A)


(GOPAL KRISHNA)
VICE CHAIRMAN