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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

DA 652/92.

Dt. of Order:11-2-94.

S.Appala Raju

...Applicant

Vs.

1. The Union of India rep. by
its Secretary, Ministry of Defence,
New Delhi.
2. The Director, Naval Science &
Technological Lab., (R & D
Organisation), Ministry of Defence,
Vigyan Nagar, Visakhapatnam.

...Respondents

Counsel for the Applicant : Shri G.Parameswara Rao

Counsel for the Respondents : Shri N.R.Devraj, Sr.CGSC

CORAM:

THE HON'BLE JUSTICE SHRI V.NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

....2.

O.A.No.652/92.

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Date: 11.2.1994

J U D G M E N T

[as per Hon'ble Sri R.Rangarajan, Member(Administrative)]

Applicant joined as a Casual Helper in the Statutory Canteen of Naval Science and Technological Laboratory (N.S.T.L.), Vizag ^{under R-2} (R-2) with effect from 3.10.1989 on a daily wage of Rs.20-50 ps. It is stated by the applicant that while working so for nearly two years continuously without any break or interruption, R-2 informed JCM-IV Level Council meeting held on 20.10.1991 at Vizag that Casual Employees who had been recruited without the media of the Employment Exchange ^{have} ~~has~~ to face termination of their services. Hence, the applicant filed O.A.No.877/91 in this Tribunal apprehending that his services may be terminated. However, the said O.A. was disposed off, as this Tribunal took the view that the Departmental remedies had not been exhausted before invoking its jurisdiction, directing the applicant therein by its order dt. 20.9.91 to approach it only after exhausting the remedies available to him under statutory rules. Pursuant to this direction, he submitted a representation dt. 31.10.1991 to R-2 for a sympathetic consideration of his case. The said representation is yet to be disposed off. While so, the applicant was prevented from attending to his duties as alleged by him from 3.11.1991 by the Security Staff at the gate itself. He could not join duty thereafter inspite of his pursuation and efforts put in by the Union. Hence he has filed this O.A. to quash his oral termination order given effect from 3.11.1991 holding it as illegal and unconstitutional and for a declaration that he is deemed to have been in continuous service as

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Casual Labour with all consequential benefits and for a further direction to regularise his services in Group 'D' service viz. Peon, Helper, Mali etc. in any branch of the organisation in his turn.

2. The main contention of the applicant is that in terms of Ministry of Finance letter dt. 8.4.1991, he is entitled to a regular appointment in Group 'D' post even if he is not sponsored by the Employment Exchange as in the case of the Casual Labourers' recruited before 7.6.1988. R-2 in his reply affidavit has stated that the above quoted Memorandum is applicable only to those Casual Labourers appointed before 7.6.1988 and is not applicable to the applicant herein. The applicant was appointed in the exigencies of services to meet the urgent need and the respondents have no powers to regularise the services of any person even if he happens to be engaged in the exigencies of work as in the case of the applicant for want of Government instructions. R-2 further states that as the applicant was engaged without any formal appointment order, his services were also terminated orally and hence it is legal.

3. By the O.M.No.49014/2/86/Estt.(C) dt. 7.6.1988 Government of India issued instructions that those casual labourers who were engaged prior to 7.6.1988 i.e. the date of issue of guidelines/procedures for regularising the services of the casual labourers and who were in service on that date i.e. on the date of the aforementioned instructions may be considered for regular appointment to Group 'D' post, in terms of the general instructions if they were recruited otherwise than through an employment exchange and also even if they cross the upper age limit prescribed for the post. The applicant herein was appointed

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with effect from 3.10.1989 after the cut-off date of 7.6.1988. Hence, the instructions of the Govt. of India dt. 7.6.1988 are not applicable to him.

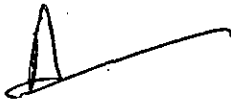
As he was not sponsored by the Employment Exchange initially he cannot claim consideration for continuance and eventual absorption in terms of the above quoted instructions. Hence there is no irregularity in the termination of the applicant.

4. It is contended by the applicant that even after the termination of his services 4 appointments have been made in the laboratory who were also not employment exchange sponsored candidates. The respondents in their reply affidavit have stated that against the sanction of 4 posts, 3 were appointed on compassionate grounds and the 4th one against the Ex-Servicemen quota. Hence, there is no irregularity in those appointments. In view of this averment of the respondents and not controverted with details by the applicant there appears to be no irregularity in the compassionate ground and ex-Servicemen appointments much less any discrimination.

5. It is now stated at the time of hearing by the learned counsel for the applicant that there is infringement of provisions of Sec.25-F of the I.D. Act in this termination. This contention was never taken either in the O.A. or in the reply affidavit. Hence, this contention cannot be entertained at this stage and hence rejected.

6. It was brought to our notice that R-2 has already recommended applicant's name for sponsoring him by the Employment Exchange against the laboratory's requisition by letter dt. 28.8.1991. A perusal of the letter will

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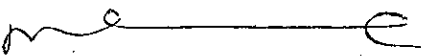
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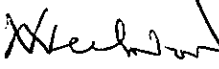
indicate that this letter is not addressed to Employment Exchange but only captioned as 'To whomsoever it may concern'. Hence, it is upto the applicant to follow up this letter by approaching the Employment Exchange authorities for sponsoring his name whenever requisition is placed by R-2. This letter in no way helps him to avoid his termination.

7. Under the above circumstances, a suitable direction to R-2 to consider the applicant's case when sponsored by Employment Exchange against the requisition of N.S.T.L. will be fit and proper. Hence the following direction is given:-

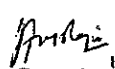
R-2 should place requisition on the concerned Employment Exchange for supply of candidates for filling up existing vacancies if any and vacancies that will arise in future in Group 'D' in accordance with rules and regulations and if the name of the applicant is sponsored by the Employment Exchange in pursuance of his requisition placed on the Employment Exchange the case of the applicant should also be considered in his turn in accordance with law. However, the above direction will not stand in the way of the respondents in filling ^{up} of vacancies through compassionate ground appointments and ex-Servicemen quota appointments.

8. The O.A. is ordered accordingly. No costs.


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice-Chairman

Dated 11 February, 1994.


Deputy Registrar (J) CC

Grh.
To

1. The Secretary, Ministry of Defence,
Union of India, New Delhi.
2. The Director, Naval Science & Technological Lab (R&D Organisation
Ministry of Defence, Vigyan Nagar, Visakhapatnam.
3. One copy to Mr. G. Parameswar Rao, Advocate, CAT. Hyd.
4. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One spare copy.

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10/3/94

TYPED BY

COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHI : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER
(ADMN)

Dated: 11-2-1994.

~~ORDER/JUDGMENT:~~

M.A./R.A/C.A. No.

in

O.A.No.

652/92

T.A.No.

(W.P.No.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

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