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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

O.A.NO.180/96

Between:

Date of Order : 15.4.96

Mohd.Sujjat Ali

...Applicant.

And

1. The Regional Director,  
E.S.I. Corporation,  
Regional Office, D.NO.5-9-23,  
Hill Fort Road, Adarshnagar,  
Hyderabad.

...Respondents.

Counsel for the Applicant : Mr.D.P.Kali

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

CORAM:

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

contd...

O.A. 180/96.

Dt. of Decision : 15-04-96.

ORDER

I As per Hon'ble Shri R. Rangarajan, Member (Admn.) I

The applicant in this OA was initially appointed as Water Sprinkler in seasonal post from 23-04-90 to 29-06-90.

It is stated that he was given the pay as applicable to a regular employee. The office order/appointing him to the

post of Water Sprinkler. This order states that "the applicant is appointed purely temporary on contingent basis likely to be terminated at any time with or without assigning him any reason thereof". As the applicant was disengaged after 29-06-90 it is stated by the respondents that he filed a Writ Petition in AP High Court for regular absorption <sup>vide</sup> W.P.No. 11302/90. But that Writ petition was disposed of stating that he can be appointed in accordance with rules. Thereafter it is stated for the respondents that he filed a Contempt Petition in the AP High Court on 16-08-91 for not re-engaging him. That CP was dismissed by the AP High Court on 21-10-91 for he was not sponsored by the employment exchange. Thereafter he filed another CP dated 25-11-92 which was also dismissed.

2. Thereafter the applicant filed OA <sup>1421/95</sup> on the file of this Bench which was disposed of on 27-11-95. The prayer in that OA was for a direction to the respondents to appoint him by duly absorbing him in Class-IV post and Group-D by virtue of his past service in the existing vacancy.

3. A comparison of the prayer in OA. 1421/95 and the present OA ~~reveal~~ that the prayer in this OA is same as the prayer in <sup>the</sup> other OA. The applicant had failed <sup>to</sup> challenge the rejection order to his representation dated 1-12-95. The proper course for the applicant is to challenge the rejection order which was issued to his representation dated 1-12-95 and on that basis he should ask for relief. Unfortunately he has not taken that course while filing this OA.

4. The main ground taken by the applicant in the OA is that some six employees were ~~reengaged on contingent basis~~ <sup>who were initially engaged</sup> along with him <sup>though</sup> they were also not sponsored by the employment exchange. These six employees have been taken ~~on~~ regular basis and the applicant is discriminated against <sup>them</sup> by not appointing him on a regular basis as was done in the case of the other six employees.

5. The learned standing counsel brought to my notice the reply in para ~~4(111)~~ <sup>of</sup> the reply statement wherein it is said that the six employees mentioned by the applicant were not employed as Water Sprinkler. They were working in canteen and in pursuance of the order of the Apex Court in regard to the absorption of non-statutory departmental/co-operative catering employee located in the government office those six employees were <sup>re-</sup>engaged and hence the applicant should not have any grievance if those six employees were absorbed as they were working in the canteen and not as Water Sprinkler.

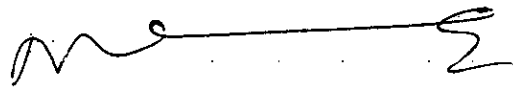
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The applicant further brought to my notice that by memorandum No.B-15(11)-2/92-Estt.I(B) dated 31st March 1995 (Annexure-IV to the reply) there is a provision for appointing ex-casual labour without going through the employment exchange. But a study of the letter reveal that this concession has been given only to the casual employees employed in the departmental co-operative canteen/Tiffin rooms etc., This memorandum does not give any blanket orders to re-engage and regularise ex-casual labour even if they are not engaged through employment exchange and even if they are engaged in activities other than departmental/Co-operative canteen/Tiffin rooms etc., The applicant has not produced any valid proof to show that he was employed as contingent employee in ESIC departmental/co-operative canteen/Tiffin Rooms etc., As a matter of fact his appointment order clearly shows that he was employed as a contingent worker as a Water Sprinkler. Hence, he cannot compare his case with that of six employees who were engaged as casual labourers and discharged from canteen earlier. Hence the contention that the applicant was discriminated against the other six casual labourers employed in ESIC/Departmental/Co-operative canteen cannot be accepted and this contention has to be negatived.

6. The applicant has not brought to my notice at any time that he was initially engaged through employment exchange. He only contends that as he belonged to a minority community he should be re-engaged. No rule or instructions was shown by the learned counsel

for the applicant that there is a reservation for minority community employee. In the absence of any instructions/rules to that effect, the contention also cannot be accepted.

7. In the result, the OA is dismissed as having no merits. No costs.



(R. Rangarajan)  
Member (Admn.)

Dated : The 15th April 1996.  
(Dictated in Open Court)

*Arul*  
Dy. Registrar (J)

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Contd...

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

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

DATED: 15-4-96

ORDER/JUDGEMENT

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

IN

B.A.NO. 180/96

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDERS AS TO COSTS

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