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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No. 905/96
O.A.Sr.No. 4041/95.

Date of Judgement : 24.7.96.

Between

P.Venkat Rao

.. Applicant

And

1. The Chief Commissioner
of Income Tax,
Andhra Pradesh,
Hyderabad.

2. The Dy. Director of
Income Tax (Inv),
Visakhapatnam.

.. Respondents

Counsel for the Applicant .. Shri Ratnam for
Shri D.Dhilleswara Rao

Counsel for the Respondents, Shri K.Bhaskar Rao,
CGSC

C O R A M

Hon'ble Shri Justice M.G.Chaudhari : Vice-Chairman

Hon'ble Shri H.Rajendra Prasad : Member(A) *Q*

Judgement

(Oral Order as per Hon'ble Shri Justice M.G.Chaudhari,
Vice-Chairman)

Heard learned counsel for both the parties.

2. The applicant contends that he was engaged as a part-time Driver in the Office of the Dy. Director of Income Tax (Inv), Visakhapatnam from July, 1992 till 10.7.95 but he was dis-engaged from 10.7.95 which is wrong. He prays that after declaring the action of the respondents in dis-engaging him as illegal the respondents should be directed to re-engage him as part-time Driver in the existing vacancy. His claim is based on two grounds. Firstly that as he has completed more than 3 years of service he should have been given temporary status to obtain Group-D status for regular appointment and without

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doing so the respondents having adopted the policy of ^{hire} hiring ^{and fire} their action is illegal and secondly that although he had applied for the regular post of Driver in pursuance of the memorandum dated 9.6.95 he was not appointed on the ground that he was not a Group-D employee.

3. Admittedly, by memorandum dated 9.6.95 applications were called for recruitment to the post of Driver. However, the eligibility criteria was qualified Group-D employee. The other qualifications were passing of VIII Standard, possession of valid driving licence, experience of driving a motor car for 5 years and age between 20-30 years. If the applicant admittedly was not a Group-D employee, his selection in pursuance of this memorandum cannot be considered illegal or wrong.

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4. As far as his claim for grant of temporary status is concerned, no rule has been pointed out to entitle him for the ^{same} pay. Moreover, he was also engaged as a part-time Driver on contingent payment and there is no assertion that he had continuously worked for 3 years. Even otherwise he being engaged as part-time Driver the completion of 3 calendar years does not automatically mean that he had worked continuously for 3 years. Apart from the above consideration the order obtained by the applicant in the earlier O.A. (O.A.No.973/95) on 23.8.95 makes it difficult to entertain the present claim of the applicant. The order directed that if there was work available for part-time Driver then the applicant should be engaged and continued till he was replaced by a regular Driver. Since the respondents have completed selection for regular appointment in the available posts of Driver the dis-engagement of the applicant on 10.7.95 cannot be held to be wrong or illegal.

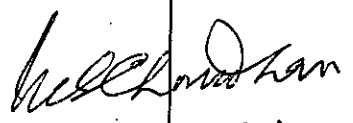
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5. Shri K.Bhaskar Rao, learned counsel for the respondents submitted that the applicant was engaged as part-time Driver to perform duty as and when required and it was not by any means regular engagement. The submission appears to be correct.

6. Thus, no legal right is disclosed by the applicant to be re-engaged after a period of one year ~~has lapsed~~ since the date of dis-engagement.

7. The O.A. is rejected at the admission stage.


(H.Rajendra Prasad)
Member (A) .


(M.G. Chaudhari)
Vice-Chairman.

Dated: 24.7.1996.
Dictated in Open Court.

br.


Deputy Registrar (NCC)

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O.A.905/96

To

1. The Chief Commissioner of Income Tax,
A.P.Hyderabad.
2. The Deputy Director of Income Tax(Inv)
Visakhapatnam.
3. One copy to Mr. D.Dhilleswara Rao, Advocate, CAT.Hyd.
4. One copy to Mr. K.Bhaskar Rao, Addl.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 24-7 -1996

ORDER/JUDGMENT

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

in

O.A.No. ~~505/96~~ 905/96

T.A.No. (W.P.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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