

(26)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..

O.A.No. 947 of 1996.

(AS PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE-CHAIRMAN

Date: August 14, 1996.

Between:

Rokkam Sreenu.

.. Applicant.

And

1. Union of India rep., by Secretary,
Ministry of Defence, New Delhi.

2. Flag Officer Commanding in Chief,
Eastern Naval Command, H.Q. Visakhapatnam -4.

3. Base Vitualling Officer, B.V. Yard,
Visakhapatnam -9.

Respondents.

Counsel for the Applicant: Sri P.B. Vijaya Kumar.

Counsel for the respondents. Sri N.R. Devraj, Senior
Standing Counsel for the
respondents.

CORAM:

HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE-CHAIRMAN. *hca*

HON'BLE SHRI H. RAJENDRA PRASAD, MEMBER (A) *2/14/96*

O.A.No.947/96.

Date: August 14, 1996.

O R D E R.

(AS PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE-CHAIRMAN)

..

The applicant seeks re-engagement as casual labourer with the respondents. It is stated that he has worked between 2-5-1994 and 20-3-1995 in spells as a labourer engaged on daily wages. His last spell ended on 30-11-1995. He has not thereafter been re-engaged. Although he filed a representation to the respondents on 15-12-1995, there was no response. Hence he has filed this O.A.

2. We find it difficult to see any legal right acquired by the applicant from merely being engaged for sometime in spells as a casual labourer to be entitled to seek a direction to the respondents either to re-engage him or regularise him. The O.A., has been filed in the light of interim orders passed earlier in certain O.As., and that has been made a strong ground by the learned counsel for the applicant in his argument. It may be mentioned in this connection that in the past directions used to be given by this Tribunal for consideration of such casual labourers in future if there was any vacancy and if recruitment was intended, in preference to freshers or outsiders. This Division Bench though found it difficult that to adopt/form of the direction issued a modified Order on 14-3-1996 O.A.300/96 directing the respondents in that

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case to take a sympathetic view and consider whether the applicant (in that case) could be appointed before any fresh or outside candidate was considered. Similar direction is sought by the present applicant. We are, however, not inclined to make such a direction now in the light of the latest decision of the Hon'ble Supreme Court in STATE OF HIMACHEL PRADESH Vs. SURESH KUMAR VERMA & OTHERS (1996) 33 ATC P 336). In that case services of Assistant Development Officers who were appointed on daily wages were terminated and they were ordered to be re-engaged by the High Court. Allowing the appeal Their Lordships were pleased to hold and observe as follows:

"It is settled law that having made rules of recruitment to various services under the State or to a class of posts under the State, the State is bound to follow the same and to have the selection of the candidates made as per recruitment rules and appointments made accordingly. From the date of discharging the duties attached to the post the incumbent becomes a member of the services. Appointment on daily wages basis is not an appointment to a post according to the Rules."

"The vacancies require to be filled up in accordance with the Rules and all the candidates who would otherwise be eligible are entitled to apply for when recruitment is made and seek



consideration of their claims on merit according to the Rules for direct recruitment along with all the eligible candidates. The appointment on daily wages cannot be a conduit pipe ~~pipe~~ for regular appointments which would be a back- ~~back-door~~ entry, detrimental to the efficiency of service and would breed seeds of nepotism and corruption. It is equally settled law that even for class IV employees recruitment according Rules is a pre-condition. " "

"One temporary employee cannot be replaced by another temporary employee"

(Emphasis supplied)


3. The applicant in the present case cannot claim re-engagement under any recruitment rules nor such is his case. Hence giving any direction to the respondents to consider him in future vacancies in preference to those who would be considered according to the recruitment rules merely on sympathetic ground would amount to encouraging back-door entry ~~de-hors~~ the rules and it would be illegal. The directions given in the earlier cases were based merely on sympathetic considerations and no ratio has been laid down to justify the same. These directions therefore could only have a ^{persuasive} ~~permissive~~ value and cannot be taken as binding precedents. In view of the principles enunciated by the Hon'ble Supreme Court in the abovementioned judgment we think that it would be improper to give similar direction in this case in the absence of any legal right that can be claimed by the applicant. The applicant is therefore not


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entitled to be given the relief prayed but we clarify that it will be open to him to apply at future recruitment for Class IV appointments if and when held, if he would be eligible to apply. The application thus is liable to be rejected as it does not disclose any cause of action.

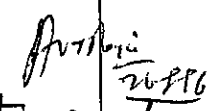
4. The O.A., is accordingly rejected.

No costs.


H. RAJENDRA PRASAD
MEMBER (A)


M.G. CHAUDHARI, J
VICE-CHAIRMAN

Date: August 14, 1996.

Pronounced in open Court.  Deputy Registrar (J) cc

SSS

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O.A.947/96.

To

1. The Secretary, Ministry of Defence,
Union of India, New Delhi.
 2. The Flag Officer, Commanding-in-Chief,
Eastern Naval Command, H.Q. Visakhapatnam-4.
 3. The Base Vitualling Officer, B.V. Yard,
Visakhapatnam-9.
 4. One copy to Mr. P. B. Vijayakumar, Advocate, CAT. Hyd.
 5. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
 6. One copy to Library, CAT. Hyd.
 7. One spare copy.
- 8) copy to All Reporters as per standard list of CAT. Hyd.
pvm.

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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: 14 8-1996

ORDER / JUDGMENT

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

in

O.A.No.

247/96.

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.

pvm

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH
10 FEB 1997
हैदराबाद बेंच
HYDERABAD BENCH