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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of Order: 7.11.2000

OA 303/99

Ram Dayal Dhanka son of Shri Bhannu Ram Dhanks aged around 29 years resident of A-55, Ajad Nagar Colony, Near Ali Port, Sanganer. Presently working as Watchman (Group-D) in the Office of Dy. Chief Controller of Explosives, Jaipur.

.... Applicant.

Versus

1. Union of India through Secretary, Ministry of Industries, Govt. of India, New Delhi.
2. Chief Controller of Explosives, Department of Explosives, Govt. of India, 5th Floor, Block 'A', CGO Complex, Nagpur.
3. Dy. Chief Controller of Explosives, Department of Explosives, Govt. of India, Near Amrapali Circle, Vaishali Nagar, Jaipur.

.... Respondents.

Mr. P.P. Mathur, Proxy counsel for
 Mr. Vinod Goyal, Counsel for the applicant.
 Mr. Hemant Gupta, Proxy counsel for
 Mr. M. Rafiq, Counsel for the respondents.

CORAM

Hon'ble Mr. S.K. Agarwal, Member (Judicial)
 Hon'ble Mr. Gopal Singh, Member (Administrative)

ORDER

(PER HON'BLE MR. S.K. AGARWAL, MEMBER (JUDICIAL))

In this OA filed under section 19 of the Administrative Tribunal's Act, applicant makes a prayer to quash and set aside order dated 11.3.99 at Annexure A-1, Order dated 17.5.99 at Annexure A-2 and to direct the respondents to give regular appointment since his initial appointment with all consequential benefits.

2. The facts of the case, as stated by the applicant, are that applicant was initially appointed on the post of Watchman on 1.5.98 in regular pay-scale of Rs. 2550-55-2660-60-3200 per month against a regular vacancy. It is also stated that after period of one year, fresh appointment was given to the applicant by giving artificial break and applicant is continuously working on the post of Watchman since then with full satisfaction to the superior officers but Chief Controller of Explosives issued order dated 11.3.99 at Annexure A-1 by which directions given to give periodically break to the ad-hoc appointees. It is stated that the aforesaid order is unreasonable and unjust. It is further stated that order dated 17.5.99 by which services of the applicant were terminated on the ground that practice of giving break periodically and appointing the same person shall be discontinued and the person should not be given appointment for more than a period of one year. No reasons have been stated in the order of termination. Therefore, it is stated that orders in question are arbitrary, unjust and unreasonable and liable to be quashed.

3. Reply was filed. In the reply it is stated that applicant was appointed to work as Watchman on Group 'D' post with the assurance that he will work till the appointment of regular Watchman is made through Employment Exchange. This fact was clearly mentioned in the order of appointment. It is also stated that Employment Exchange was requested to sponsor candidates for the post of Watchman but none was sponsored by the Employment Exchange. Therefore, Employment Exchange was again asked to nominate the names of candidates vide letter dated 17.2.99. In this letter, Employment

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Exchange was requested that applicant's name may also be considered but Employment Exchange has not sponsored the name of any candidates for regular appointment. Therefore, services of the applicant was terminated as he was on ad-hoc basis. It is stated that answering respondents have followed the guidelines for filling up the post, as received from the Department from time to time. Therefore, Orders under challenge are perfectly legal and just and applicant has no case in this Tribunal.

4. The applicant also filed rejoinder retaining the fact in the OA which is on record.

5. Heard the learned counsel for the parties and also perused the whole record.

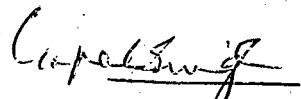
6. It is an admitted fact that no appointment has been made by the respondent Department so far and vacancy is still available for Watchman unless a regular selection is made on the post. Vacancy can be filled up by ad-hoc appointee and it will be unreasonable and unjust to fill up the post of Watchman by terminating ad-hoc appointee and by filling up that post by ad-hoc appointee. Therefore, we are of the opinion that till regularly selected candidate is appointed and joins, the services of the applicant should ~~have~~ not have been terminated on the principle that an ad-hoc appointee should not be substituted by ad-hoc appointee.

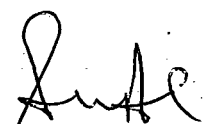
7. We, therefore, allow this OA and quash and set aside the order dated 17.5.99 by which services of the applicant were terminated and respondents are directed not to dispense with the services of the applicant till a regularly selected

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candidate is appointed and joins on the post. The applicant will be free to participate in the process of selection, if initiated, for regular appointment on the post of Watchman.

8. No order as to costs.


(GOPAL SINGH)
MEMBER (A)


(S.K. AGARWAL)
MEMBER (J)