

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.210/2000 Date of order: 16/10/2001

Chhotu Singh, S/o Sh.Kanchan, R/o Baswa, Dausa,  
Chowkidar Doordarshan, TV Tower Baswa Disft.Dausa.

...Applicant.

Vs.

1. Union of India through Secretary, D/o Doordarshan  
M/o Information & Broad Casting New Delhi.
2. Station Engineer, Doordarshan Maintenance Centre,  
Radhika Vihar, Mathura, U.P.
3. Asstt.Engineer, Doordarshan Relay Centre, Baswa,  
Distt.Dausa, Rajasthan.

...Respondents.

Mr.S.K.Jain : Counsel for applicant

Mr.R.P.Pareek)

Mr.Bhanwar Bagri : for respondents.

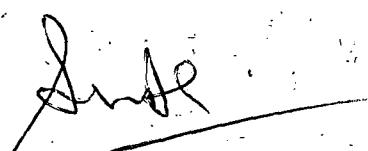
CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

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

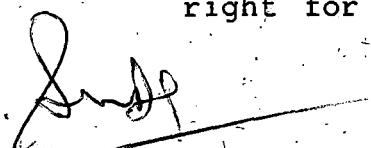
In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer (i) to quash and set aside the verbal termination order dated 4.6.98; (ii) to declare that the applicant to be in service as if his services had never been terminated with all consequential benefits; and (iii) to direct the respondents to grant regular scale of pay to the applicant alongwith arrears of pay from March 1996.

2. Facts of the case as stated by the applicant are that he was engaged as Chowkidar by respondent No.2 in March 1996 and worked continuously with artificial break till his services were verbally terminated on 3.6.98. It is also stated that the applicant was rendered more than 5 years



service in Military and discharged on 7.2.92. The services of the applicant were quite satisfactory and there were no complaint against him. It is stated that respondent No.3 terminated his services verbally without any reason and also without issuing any notice, against the principles of natural justice and without complying the legal provisions as contained in Sec.25 (F) of the Industrial Disputes Act, 1947 and in violation of Articles 14 of the Constitution. It is further stated that one Sh.Nekram was engaged in place of the applicant arbitrarily whereas the applicant fulfills all the eligibility criteria for appointment/regularisation on the post of Chowkidar. It is stated that as per the provisions of Ex-servicemen (Re-employment in Central Civil Services & Posts) Rules 1979, 20% of the posts are reserved for Ex-servicemen and further there are provisions to relaxation of educational qualifications in respect of ex-servicemen in this way the applicant should be given priority for appointment as Chowkidar. Therefore, the applicant filed this O.A for the relief as above.

3. Reply was filed. In the reply, it is denied that the applicant discharged the duties of a regular post of Chowkidar as there is no vacant post. He was engaged for day-to-day contingency works and was paid wages in accordance with the number of days he was engaged. It is also denied that the applicant continued as Security Chowkidar upto 3.6.98. It is also denied that any verbal termination order was issued for terminating the services of the applicant w.e.f. 3.6.98. It is stated that the provisions of Sec.25 (f) of the Industrial Disputes Act are not applicable in the instant case as the applicant has no right for regularisation/appointment without undergoing the



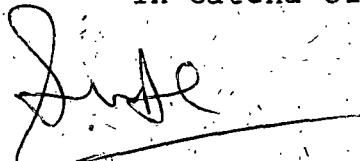
process of selection under the relevant rules. It is further stated that since there is no vacant post of Chowkidar then adjustment of Shri Nekram on the post of Chowkidar is baseless. It is also stated that without any sanctioned post of Chowkidar, the applicant cannot insist to engage him as Chowkidar in view of the Exservicemen Rules, 1979. It is stated that the applicant was engaged as casual labour on daily wage basis in view of the availability of work and he has no right of regularisation de-hors the rules. Hence, the applicant has no case for interference by this Tribunal.

4. Rejoinder has been filed reiterating the facts as stated in the O.A.

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

6. The learned counsel for the applicant vehemently argued that in spite of satisfactory service rendered by the applicant for a period of more than 2 years, the services of the applicant were terminated by oral orders, without complying the provisions of Sec.25(f) of I.D Act, 1947, is arbitrary, illegal and in violation of the provisions of the Constitution of India. On the other hand, the learned counsel for the respondents objected this argument and argued that a casual labour does not hold the civil post and the applicant was not appointed by any order in writing and submitted that the case of the applicant is not covered under the I.D. Act and if covered under the ID Act, the Tribunal has no jurisdiction to entertain the matters covered under the I.D. Act.

8. The law on the subject has come up for consideration in catena of cases before different Courts of this country.



9. In A. Padmavally Vs. CPWD & Telecom (1990) 14 ATC 914, the Full Bench of the Tribunal sitting at Hyderabad, has concluded as under:

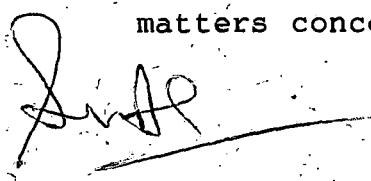
"The Administrative Tribunals constituted under the Administrative Tribunals Act are not substitutes for the authorities constituted under the Industrial Disputes Act and hence the Administrative Tribunal does not exercise concurrent jurisdiction with those authorities in regard to matters covered by jurisdiction with those authorities in regard to matters covered by that Act. Hence all matters over which the Labour Court or the Industrial Tribunal or other authorities had jurisdiction under the Industrial Disputes Act do not automatically become vested in the Administrative Tribunal for adjudication."

10. In Krishna Prasad Gupta Vs. UOI & Ors, JT 1995(7) SCC 522, Hon'ble Supreme Court inter alia observed in para 22 as under:

"It is, therefore, apparent that inspite of Sec 14 of the Act, the jurisdiction of Industrial Tribunal, Labour Courts or other authorities under ID Act or authority created under the corresponding law remains unaffected."

11. In view of the above decision of the Supreme Court, the Tribunal cannot have jurisdiction like Labour Court to decide the disputes arising under the ID Act.

12. In Bhim Singh & Ors Vs. UOI & Ors, 1992(3) SCC 136 the Jabalpur Bench of the Tribunal has replied the reference holding that the Tribunal has no jurisdiction in respect of matters concerned under I.D. Act, 1947 and right to confer on



workman can only be enforced through the machinery provided by the Act and only on a reference made by appropriate government to the Industrial Tribunal or Labour Court concerned, as they are not common law rights.

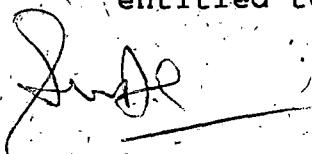
13. In Harendrakumar B.Bhandari & Ors Vs. Asstt.Director Incharge, Small Industries Service Instt. & Anr., 1999(3)

SLJ (CAT) 503, it was held by Mumbai Bench of the Tribunal that the Tribunal has no original jurisdiction to go into matters under I.D.Act.

14. In I.B.P. Company Ltd. Vs. B.S.Bharti, 2000(1) SLJ 338, it was held by Delhi High Court that Civil Court has no jurisdiction to entertain the matters falling under Industrial Disputes Act, 1947 and sister laws for which equally effective, efficient and inexpensive forum is available.

15. On the basis of the settled legal position as mentioned above and facts and circumstances of this case, I am of the considered opinion that the matter in the instant case can be covered under the Industrial Disputes Act, 1947 and this Tribunal has no jurisdiction in respect of matters covered under I.D. Act. Therefore, the plea taken by the learned counsel for the applicant is not sustainable and the citations referred by the counsel for the applicant do not help the applicant in any way in the facts and circumstances of this case.

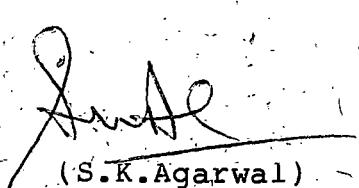
16. The learned counsel for the applicant has also argued that the applicant is entitled to regularisation on Group-D post as he has rendered satisfactory service for more than 5 years. The counsel for the respondents has objected this argument and stated that the applicant is not entitled to regularisation.



17. The case of the applicant is not sustainable on the principles of 'natural' justice also. Admittedly, the applicant was engaged as casual labour and no temporary status was ever conferred upon him. It is settled law that casual labour has no right to the particular post. He is neither a temporary government servant nor a permanent Government servant. The protection available under Article 311 does not apply to him. His tenure is precarious. His continuance is depend on availability of work and satisfaction of the employer. Temporary status conferred on him by the scheme only confers him those rights which are spelt out in clause 5 of Casual Workers (Grant of Temporary Status and Regularisation) Scheme, 1993. Therefore, a daily rated casual labourer does not ipso facto gets a right of continuance but the right to continuance of such a casual labour is subject to availability of work, satisfactory performance and conduct.

18. Therefore, looking to the settled legal position and facts and circumstances of this case, I do not find any basis for this Tribunal to interfere and the applicant has no case for reinstatement as well as regularisation. Therefore, this O.A devoid of any merit is liable to be dismissed.

19. I, therefore, dismiss this O.A having no merits with no order as to costs.



(S.K. Agarwal)

Member (J).