

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./XXX No. 281 . . . . of 2001

DATE OF DECISION 12.2.2001.....  
( AT SHILLONG )

Shri  Kumar Das

PETITIONER(S)

Mr S. Sarma

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

Mr K.N. Choudhury and Mr B.C. Das

ADVOCATE FOR THE  
RESPONDENTS

THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

THE HON'BLE MR K.K. SHARMA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.281 of 1998

Date of decision: This the 1st day of February 2001

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri Niharendu Kumar Das,  
Resident of Thana Road,  
Shillong, Meghalaya.

.....Applicant

By Advocate Mr S. Sarma.

- versus -

1. The Union of India, represented by the Secretary, Ministry of Agricultural Department, New Delhi.
2. The Director General, Indian Council of Agricultural Research, Government of India, New Delhi.
3. The Director, Indian Council of Agricultural Research, Research Complex for N.E.H. Region, Barapani, Meghalaya.
4. The Senior Administrative Officer, Indian Council of Agricultural Research, Research Complex for N.E.H. Region, Shillong.
5. The Administrative Officer, ICAR Research Complex for N.E.H. Region, Barapani, Meghalaya.
6. The Asstt. Administrative Officer, ICAR Research Complex for N.E.H. Region, Shillong.
7. The Librarian, ICAR Complex for N.E.H. Region, Laban, Shillong.

.....Respondents

By Advocates Mr K.N. Choudhury and  
Mr B.C. Das.

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O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

The issue relates to termination of service of the applicant by the respondents. The applicant was engaged as a casual labourer under the respondents. He continued to discharge his duty as such till 1987. By order dated 2.2.1987 the applicant's service was discontinued with retrospective effect. The applicant submitted several representations, but failing to get any positive response from the respondents, he approached this Tribunal.

2. The respondents in their objection stated that the applicant was appointed on casual basis without any interview/selection and at the time of engagement on casual basis as typist he was aged about 32 years, which was much above the maximum age required for entry into service and therefore, his appointment was clearly void ab-initio. Accordingly the applicant was discharged from his casual work. After his removal he was suffering from tuberculosis and was undergoing treatment at Guwahati.

3. None appears on behalf of the applicant. The respondents are represented by Mr B.C. Das. The learned counsel for the respondents submitted that the very appointment of the applicant is unsustainable since he was appointed at the age of 32 years which is not legally permitted. Mr Das further submitted that the applicant by now has become overaged and in the circumstances the question of taking him back into service does not arise.

4. Patently, the termination of the applicant with retrospective effect cannot be sustained. The applicant's discontinuation was served only after 2.2.1987 and not prior to it. For the period from 11.1.1987 to 1.2.1987, the applicant is entitled for his salary.

5. We have given our anxious consideration in the matter. It appears that the applicant rendered service for about seven years, maybe on casual basis and the respondents discharged him from service with retrospective effect on the plea that since the applicant was overaged he was not

entitled.....

entitled for appointment even on casual basis. The ground is not proper, more so, the ground of his being overaged at the time of entry into service cannot be accepted since the applicant was allowed to render his service upto 1987. When he was allowed to join in service it must be presumed that the respondents appointed him after relaxation of his age. <sup>A</sup> The official action ~~at that time~~ <sup>at that time</sup> is presumed to have been done regularly. At any rate, his termination is not on that ground. Even otherwise, the case of the applicant deserves consideration since he has rendered service for a long period. The respondents are, therefore, expected to consider the case of the applicant overlooking the age factor. Accordingly we direct the respondents to consider the case of the applicant for engaging him in any capacity commensurate with his qualification, as early as possible, preferably within three months from the date of receipt of this order.

6. The application is accordingly allowed. There shall, however, be no order as to costs.

*KK Sharma*

( K. K. SHARMA )  
ADMINISTRATIVE MEMBER

*D. N. Chowdhury*

( D. N. CHOWDHURY )  
VICE-CHAIRMAN

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