

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./~~XXX~~ No. 42 of 2002... ~~XVI~~

8.11.2002
DATE OF DECISION.....

Sri Manjay Chetry. APPLICANT(S)

Mr.J.L.Sarkar, A.Chakraborty & ADVOCATE FOR THE APPLICANT(S)
Mrs.S.Deka.

-VERSUS-

Union of India & Others. RESPONDENT(S)

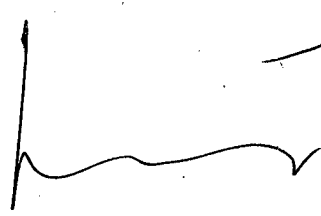
Mr.B.C.Pathak, Addl.C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S)

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

THE HON'BLE

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.



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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 42 of 2002.

Date of Order : This the 8th Day of November, 2002.

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

Sri Manjay Chetry
Working as Casual Driver in the
Office of the Director of Postal Services
Arunachal Pradesh Division
Itanagar-11. . . . Applicant.

By Advocate Mr.J.L.Sarkar, A.Chakraborty &
Mrs.S.Deka.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Communication
Department of Post
New Delhi.
2. The Director of Postal Services
Arunachal Pradesh Division
Itanagar - 791 111. . . . Respondents.

By Mr.B.C.Pathak, Addl.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C.):

This application under section 19 of the Administrative Tribunal's Act, 1985 is made praying for conferment of temporary status in the light of the policy laid down by the Govt. of India. The basic facts relevant for the purpose of adjudication of the case are summed up herein below :-

1. The applicant was engaged as a Casual Driver in the office of the Director of Postal Services, Arunachal Pradesh Division, Itanagar w.e.f.14.9.2000 on daily wages basis vide memo No.B-1/Staff/Rlg/Corr dated 14.9.2000.

The applicant worked accordingly in the year 2000 and 2001. The applicant was sponsored by the Employment Exchange, Naharlagun and his appointment was made after process of selection. After joining under the respondents the applicant rendered his services in the department. The applicant pleaded that he worked more than 240 days in a year and his total service rendered is one and half years. The applicant pleaded that though he is working under the respondents the respondents has not paid him salary since 21.11.2001. The applicant pleaded before the authority demanding justice. Failing to get appropriate remedy from the authority the applicant moved this Tribunal for redressal of his grievances by way of this application.

2. The respondents submitted its written statement, wherein it was stated that he was selected as a Casual Driver of the MMS Vehicle No.AR-01-A-3167 on daily wages basis vide order dated 14.9.2000. He was terminated from his service as he was not found suitable for regular absorption. In the written statement in Para 3 the respondents clearly stated that his services was discontinued because of misconduct. He was directed to submit his explanation and he failed to comply with the order and accordingly he was discontinued from his service. In the written statement the respondents also stated that the applicant was working as such a Group-C category Driver, therefore, "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989" was not applicable to the applicant. Moreover, the scheme was

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operative from 29.11.89 to 1.9.93 only, whereas the applicant was engaged as Casual Driver only from 14.9.2000. The respondents in the written statement clearly stated that the applicant worked on casual basis from 23.9.2000 to 20.11.2001. Since the applicant was not found suitable for the job he was discontinued.


3. I have heard Mr.J.L.Sarkar, learned counsel for the applicant and also Mr.B.C.Pathak, learned Addl.C.G.S.C. for the respondents at length. On consideration of materials on record, it appears that the applicant worked for more than a year in the department and he was discontinued from service on the alleged misconduct. Admittedly, no enquiry was conducted. His removal from service as Casual Worker on the alleged misconduct without holding enquiry is, therefore, not sustainable. Mr.B.C.Pathak, learned Addl.C.G.S.C., however, submitted that the applicant was a Casual Driver and since there was a proved misconduct on the facts and circumstances the authority bonafide passed the order of termination. There is no dispute that the order of termination/removal is passed because of misconduct. The very foundation of such removal was the alleged misconduct without giving opportunity to the applicant and, therefore, said termination/removal order cannot be sustained. Mr.B.C.Pathak contended that the applicant cannot be conferred temporary status, more so, he was engaged in Group-C and that Temporary Status Scheme is not an ongoing process. The scheme has expired in 1.9.93.

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Mr.Pathak's contention has its force and therefore question of granting Temporary Status does not arise, but then it will not preclude the authority to consider his case for regular absorption as per law.

On consideration of all the aspects of the matter, the order of removal is set aside and the respondents are directed to re-instate the applicant in the post from which he was removed.

The application is allowed to the extent indicated above. There shall, however, be no order as to costs.


(D.N.CHOWDHURY)
VICE CHAIRMAN