

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 840 of 2004

Indore this the 18th day of October 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Mahesh Prasad Burman,
S/o. Bhikam Lal Burman,
Aged about 30 years,
R/o. Vill. Hathna, PO. Maharajpur,
The. & Dist. Jabalpur,
(Ex-employee of Kendriya Vidyalaya,
CMM Ridge Road, Jabalpur). Applicant

(By Advocate – Shri R.K. Jatav)

Versus

1. Union of India, through its
Secretary, Ministry of Education,
New Delhi.
2. Zonal Officer, Kendriya Vidyalaya
Sangathan, Civil Lines, Jabalpur.
3. Principal, Kendriya Vidyalaya,
CMM Ridge Road, Near Lekha
Nagar, Jabalpur (MP). Respondents

(By Advocate – Shri M.K. Verma)

ORDER

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main relief :

“to direct the non applicant and specially to the non applicant No. 3 the Principal of the Kendriya Vidyalaya, CMM, Ridge Road, Jabalpur to re-employ the applicant who has been terminated without any valid reason by quashing the oral order dt. 1.2.2004.”



2. The brief facts of the case are that the applicant had appeared in a direct interview on 10.9.1999 falling an intimation through employment exchange. After successful completion of the interview and scrutiny of his documents regarding educational qualifications, character certificate, caste certificate etc. he was given employment as Casual Labour in Kendriya Vidhyalya, CMM, Ridge Road, Jabalpur. He was in service from 1.10.1999 to 1.2.2004 when all of a sudden without any prior intimation or notice he was terminated vide an oral order dated 1.2.2004. Later on the applicant has come to know that some other new persons have been employed by the respondents in his place. Hence he has filed this Original Application.

3. Heard the learned counsel for both the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that the applicant was duly selected as Casual Labour in the respondents department after verification of his relevant documents regarding his qualification, experience, cast, etc. He regularly served in the institution for a period from 1.10.1999 to 1.2.2004. Before the termination of his service he was not heard and no show cause notice was issued and his service was terminated by an oral order. The respondents have employed a new person on his place. The action of the respondents is against the rules and law. Hence, this Original Application deserves to be allowed.

5. In reply the learned counsel for the respondents argued that the applicant is a casual labour and had worked on contractual basis with the respondents department and therefore, he is not a civil post holder as per the requirements of the Administrative Tribunal Act, 1985. No prior intimation is required on the case of casual workers because there work is based on daily need and day to day basis. The applicant was not appointed on regular basis as per recruitment rules. The applicant is not being paid



from the consolidated funds of India. The applicant has not been given any appointment or assurance for giving continuous work. The applicant has not worked regularly as helper but as and when the work was required i.e. some time 5-10 days in a month or less. This can't be interpreted as regular for more than 4 years. Hence, the action of the respondents is perfectly legal and justified. Accordingly, the Original Application deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records we find that according to the argument advanced on behalf of the respondents the applicant was employed as a casual labour and he had worked on contractual basis on daily need and on day to day basis. He was not appointed on regular basis and he has not working as a regular employee but as and when the work was required his services were taken i.e. some time for 5-10 days in a month or less. These facts are not controverted by the applicant by filing any rejoinder. The applicant has not filed any appointment letter issued by the respondents in his favour to support his claim. He has simply filed the documents regarding his educational qualifications, character certificate, caste certificate etc. The another argument advanced on behalf of the respondents is that according to the working condition of the applicant in the respondents Department prior intimation was not necessary for discontinuance of the service. This argument seems to be legally correct.

7. Considering all the facts and circumstances of the case we are of the considered view that since the applicant has worked for about 4 years, as alleged by him, in the respondents department and as he was not been regularized, we feel that ends of justice would be met if we direct the respondents to consider the case of the applicant for appointment in future vacancies if any arise in the respondents department in preference to the freshers. We do so accordingly.



8. In view of the aforesaid terms the Original Application stands disposed of. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

पत्तिलिपि अर्थात् निम्न:-

- (1) सचिव, उच्च न्यायालय एवं एलेक्ट्रिकल, जबलपुर
- (2) आवेदन श्री/श्रीमती/श्री/.....के काउंसल
- (3) प्रत्यक्ष श्री/श्रीमती/श्री/.....के काउंसल
- (4) कंथपाल, पोस्टा, जबलपुर एवं न्यायिक सचिव एवं आवश्यक कार्रवाई हेतु

R. K. Jaiswal Dny JBP
M. K. Verma
Dny JBP

"SA"

उच्च न्यायालय

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