

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.480/02

Indore, this the 29th day of September, 2004.

C O R A M

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

Awadnarayan
S/o Anokhi Lal
R/o Gram Semra Dangi
Tehsil & Zilla Sehore (MP)

Applicant

(By advocate Kum.M.Dadariya)

Versus

1. Union of India through
Secretary
Ministry of Human Resources
Development
New Delhi.

2. The Principal
Jawahar Navoday Vidhyalaya
Shyampur
Dist.Sehore (MP)

3. Navodaya Vidyalaya Samiti
through Deputy Director
Regional Office at 160
M.P.Nagar, Zone II
Bhopal (MP)

Respondents

(By advocate Shri C.P.Namdeo)

O R D E R

By Madan Mohan, Judicial Member

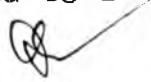
By filing this OA, the applicant has sought the following
reliefs:

- (i) Direct the respondents to regularise the applicant as Sweeper cum Chowkidar from 1996-97.
- (ii) Direct the respondents to pay to the petitioner arrears of pay notionally fixed in the pay scale of other Sweeper cum Chowkidar with increments, promotion, pay scale, DA and other consequential benefits.

2. The brief facts of the case are as follows:

The applicant is working with the respondents since 1996-97 on daily wages as Sweeper cum Chowkidar. The post is clear, vacant, sanctioned and reserved post.

He has been working from 1996-97 continuously. The gap is created artificially just to deny the applicant the fruit of his long service of five years because notices were issued to fill up vacancies of Group D posts and



applicant was asked to appear in interview for the post of Sweeper cum Chowkidar on 3.6.02 (A2). Applicant is qualified for the post, enrolled in the employment exchange and has passed primary certificate examination in 1998-99. Applicant belongs to SC category. Applicant has achieved the status of regular employee under S.9. ~~(Standing order) to~~
ID Act Rules, Industrial Employment. Respondents issued instructions vide Annexure A1 dated 10.10.2000 to conduct interview to regularise Group 'D' employees but the respondents did not follow. Respondents 1&2 filed a caveat petition before this Tribunal. In this petition, it is wrongly stated that the applicant's services have been dispensed with, though the petitioner is in service. After filing the petition, with malafide intention, respondent No.2 dismissed the applicant since 2nd August 2002 which is against Ar. 21 of the Constitution of India. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant has served in the institution of the respondents and worked satisfactorily and there was nothing adverse against his work or conduct throughout his service. Even after filing of caveat petition, respondent No.2 had dismissed the applicant since 2nd August 2002 which is against Ar.21 of the Constitution of India. The action of the respondents is apparently illegal and unjustified.

4. In reply, learned counsel for respondents argued that the applicant served in the Vidyalaya as Sweeper cum Chowkidar on part time wages basis from 3/98 on various occasions as per the need of the Vidyalaya (Annexure R1) and his name was not sponsored by employment exchange.



The certificate produced by the applicant in support of his educational qualification does not appear to be genuine and the matter is still under investigation. Further, the experience certificate produced by the applicant (Annexure A4) is also cooked up and not reliable. As per the directions received from the Navodaya Vidyalaya Samiti vide letter dated 1st July, 2001 and another letter dated 19.7.2002, recruitment for all non-teaching staff including sweeper cum chowkidar is to be made on contract basis. An interview was conducted on 3.5.2002 for various posts including Sweeper cum Chowkidar. For the post of Sweeper cum Chowkidar, 9 candidates appeared for the interview and a panel of selected candidates was prepared, in which applicant figures at Sl.No.1 and he was given offer of appointment on contract basis on 6th July, 2002 but the applicant refused to accept the offer on contract basis and chose to approach the Tribunal filing present OA. Applicant has no right for regularisation under law. In the meantime, the applicant completely stopped working in the Vidyalaya and indulged in undesirable activities which are mentioned in the reply. Thus the service of the applicant was discontinued with effect from ~~19.7.2002~~ ^{01.8.2002}. The action of the respondents is perfectly in accordance with rules and procedure laid down. They have not committed any irregularity or illegality in discontinuing the service of the applicant with effect from 1.8.02.

5. After hearing learned counsel for both parties and carefully perusing the records, we find that the applicant was an employee in the office of the respondents. An opportunity of hearing was given to the applicant before his service was dispensed with by the respondents, in public interest. His service was discontinued during the

[Signature]

pendency of the OA. The respondents in their reply have specifically stated that the applicant himself stopped working in the Vidyalaya and indulged in undesirable activities like he started misbehaving with the Vidyalaya staff, stopped attending to his assigned duties, created loss to the vidyalaya property and his pet animals were creating nuisance in the campus. In the circumstances the respondents have discontinued his services with effect from 1.8.2002 and the working is being managed by engaging another person on part time basis for day to day work, pending fresh appointment on contractual basis. The applicant has not controverted in his rejoinder the averments made by the respondents. We also find that the respondents in their reply has stated that as per directions received from the Navodaya Vidyalaya Samiti vide letter dated 1st July, 2001 and another letter dated 19.7.2002, the recruitment for all non-teaching staff including Sweeper-cum-Chowkidar is to be filled ⁱⁿ only on contract basis and not on regular basis. In terms of the new policy when there is no regular post of Sweeper-cum-Chowkidar, ^{then} the request of the applicant to regularise him on the alleged post cannot be acceded to. However, as the applicant is a low paid employee and ^{as} he is working with the respondents since 1996, ends of justice would be met if we direct the respondents to consider his case for re-engagement, if in future any ^{over} vacancy arises for the alleged post, giving precedence/ fresh candidates. We do so accordingly.

6. Accordingly, the Original Application stands disposed of. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman