

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

Original Application No.708/1999

Jabalpur, this the 3rd day of December, 2003

Hon'ble Shri M.P.Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Madanlal Yadav
s/o Shri Ram Khilawan Yadav
r/o 1811, Lalmati
Chandmari Road
P.O. Kasturba Nagar
Jabalpur (M.P.) ... Applicant

(By Advocate: Sh. V. Tripathi)

Versus

1. Union of India through
the Secretary
Ministry of Science & Technology
New Delhi.
2. Surveyor General of India
Survey of India Office
Dehradun (UP).
3. Director
Central Circle
Survey of India
314, Napier Town
Jabalpur. ... Respondents

(By Advocate: Shri P. Shankaran)

O R D E R (Oral)

By G. Shanthappa, Judicial Member:

The above OA is filed seeking for a direction to the respondents to consider the case of applicant for regularisation; applicant be given age relaxation in case he is directed to undergo a regular selection by Staff Selection Commission or any other agency; the department be directed to give due weightage for the services rendered by him. In the amended prayer, he has prayed for set-aside the oral termination order of the applicant and

Contd...2/-



to direct the respondents to reinstate the applicant with all consequential benefits including full back wages.

2. The case of the applicant is that he was working as Typist on contract basis. He was appointed on 10.9.1990 after undertaking a Typing Test. He has been paid wages for Rs.682/- per month. The applicant has been working continuously for a long time, for the services rendered by him, a service certificate has been issued as per Annexure A-4 which was issued by the Superintending Surveyor on 12.8.1999. The services of the applicant was terminated on 03.11.1999 vide order at Annexure A-6 and on same day, the said order of termination was cancelled vide order dated 3.11.1999(Annexure A-7). After serving for one week, the applicant was orally terminated by the respondents. Hence the applicant has filed the present OA seeking the above reliefs.

4. The said order of termination is illegal without notice as per the applicant's version. Hence, he sought a direction to the respondents to reinstate and the applicant/to regularise the period of service from the date of entry into service till the date of regularisation.

5. Applicant has submitted his pleas by supporting the Judgement of the Hon'ble Supreme Court in State of Haryana v. Piara Singh, AIR 1992 SC 2130. Applicant has admitted that he was not Group 'D' employee under the respondents.

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6. Per contra, the respondents have filed their detailed reply denying the averments made by the applicant in the OA. A specific contention taken by the respondents is that the services of the applicant was taken whenever the services of the applicant was required and for that he was paid a consolidated amount on contract basis.

The applicant was paid payments as per Annexure-R1. which is the ~~gr~~ ^{gr}

~~gr~~ A certificate for payment for the month of October, 1999 is produced.

that

7. The respondents have disputed the ~~issued~~ ^{gr} service certificate ~~as~~ ^{gr} per Annexure ~~A-4~~ ^{gr} dated 12.8.1999 by an incompetent officer which was issued in his personal capacity without verifying the records. Moreover, the respondents have denied that the applicant is working since 1990. The Survey of India is a Central Government and the provisions of CCS (CCA) Rules, 1965 are fully attracted in the case of appointment being made. The recruitment to the post of LDC is to be done by following certain procedure prescribed in the above rules and that to through Staff Selection Commission only, and not at the departmental level.

8. The respondents have further contended that no legal rights of the applicant have been infringed so as to approach this Tribunal. Hence, the application ~~is~~ ^{gr} is not maintainable, the same is liable to be dismissed.

9. The respondents have further stated that the Judgment of the Hon'ble Supreme Court supra which ~~was~~ ^{gr} relied by the applicant is not applicable ~~to view of~~ ^{gr} the facts of the present case as the present applicant is a Group 'C' employee.

10. The applicant has not filed rejoinder as such the contentions taken in the reply by the respondents have not been rebutted, by the applicant.

11. We have heard the learned counsel on either side and have considered the rival contentions of both the parties. We have also perused the pleadings on record. After perusal of the records, ~~xxxxxx~~ we find that a short question is to be decided in this case, whether the applicant is entitled for regularisation and also reinstatement into service?

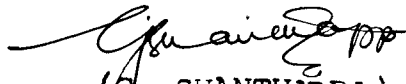
12. The admitted facts are that the applicant was worked on contract basis and for the services rendered by the applicant he has received the wages. However, the only disputed fact is that the certificate issued at Annexure A-4 can be relied for the purpose of counting the service of the applicant. Admittedly, the services of the applicant was terminated on 3.11.1999 and the said order was cancelled on the same day and the applicant was taken on duty. Subsequently, the applicant did not attend for duties, he has approached this Tribunal alleging that he was terminated without issuing an order and there was a oral order passed by the respondents. Hence, the action of the respondents is illegal. This statement cannot be believed by this Tribunal. If there is an oral order passed by the authorities, he could have approached the competent authority for redressal of his grievance. When the respondents


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have specifically denied the service certificate and also stated that the judgement cited by the applicant is only applicable to Group 'D' employees. ^{The said Judgement} ~~which~~ cannot be applied in this case.

13. In view of the above discussion, we are of the considered opinion that the applicant has failed to prove his case for grant of his reliefs. Hence, the OA is accordingly dismissed. In the circumstances of the case, there shall be no order as to costs.


(G. SHANTHAPPA)
Judicial Member


(M. P. SINGH)
Vice Chairman

/rao/

पृष्ठान्त सं ओ/ल्या.....जबलपुर, दि.....


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(2) 4
(3) 5
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सूचना एवं जागरूकता के माध्यम से

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उप-निर्देशक 16/12/03

Shri S. Paul Adv. JBP.
Shri P. Shankaran Adv. JBP.


11/12/03