

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.2334/2014

Wednesday, this the 14th day of October 2015

**Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Dr. B.K. Sinha, Member (A)**

Amar Lal D : C Age 40 years
s/o late Mr. Kishori Lal
r/o Village Bamnoli
PO Dhool Siras
New Delhi-45

..Applicant

(Mr. Arun Kumar Dhawan, Advocate)

Versus

1. Union of India through Secretary
Ministry of Law & Justice
Shastri Bhawan, Dr. Rajendra Prasad Marg
New Delhi-1
2. Mr. Anil Kumar Joshi
Under Secretary (Administration-II)
Ministry of Law & Justice
Shastri Bhawan, Dr. Rajendra Prasad Marg
New Delhi-1

..Respondents

(Mr. Rajesh Katyal, Advocate)

O R D E R (ORAL)

Mr. A.K. Bhardwaj:

The applicant herein was appointed by the Ministry of Law and Justice as daily wager w.e.f. 05.6.1991. Subsequently, in terms of order dated 12.7.1995, he was conferred with temporary status along with certain other daily wagers. Nevertheless, since he remained absent from duty, his services were discontinued after giving him one month's notice on 18.7.1995. The termination was questioned before this Tribunal in O.A.

No.231/1998, which was disposed of in terms of Order dated 24.12.1998.

Paragraphs 5 to 7 of the Order read thus:-

“5. Applicant’s services have been terminated with one month’s notice by a valid order dated 18.7.95 and he cannot successfully take the plea that he should be allowed to join duty on the ground that he did not receive the aforesaid notice. Furthermore as per applicant’s own averments he was refused permission to rejoin duty in December, 1996, but he has filed this OA in January, 1998, that is with considerable delay.

6. This OA is disposed of with the direction that subject to availability of work when respondents are considering engaging casual labourers, they should consider applicant’s case in preference to juniors and those with overall length of post services, without compelling him to be sponsored again through the Employment Exchange.

7. The OA is disposed of in terms of para 6 above. No costs.”

2. In implementation of the Order passed by the Tribunal, the applicant was reengaged in service w.e.f. 01.3.2000 and was finally given regular appointment as Safai Karamchari in terms of order dated 17.3.2006 (Annexure A-1(A)). When certain casual labourers, who were conferred with temporary status in terms of the order dated 12.7.1995 whereby the applicant herein was also given such status, were regularized in terms of the order dated 21.9.2012 with effect from the dates mentioned in the order, i.e., 07.10.2003, 29.10.2003, 3.11.2003, 04.12.2003 and 15.12.2003, the applicant filed the present Original Application praying therein:

“8.1 Call for the records of the case and quash / set aside the Order No.A-12023/1/2012-Admn.II (LA) dated 21st September, 2012 of the Respondents.

8.2 The Respondents be directed to issue a fresh order by including the name of Applicant in preference to his juniors in the Order in para 8.1 above.

8.3 The Respondents be directed to release all pay and allowances to the Applicant from the date of his appointment in a temporary capacity from 15-12-2003 or earlier in preference to his juniors.

8.4 Pass such other or further order(s) as may be deemed fit and proper in facts and circumstances of the present case.

8.5 Allow costs.”

3. According to learned counsel for applicant, when those who were having lesser length of service than him and were shown below him in the order dated 12.7.1995 have been regularized from the aforementioned dates, he is also entitled to the same benefits.

4. In the counter reply filed on behalf of the respondents, it has been explained that after the Order passed by this Tribunal in O.A. No.231/1998 (ibid), the applicant was given fresh engagement as daily wager in the year 2000 and he cannot be treated senior to those who were engaged on 09.3.1990, 10.4.1990, 17.4.1990, 19.4.1990, 14.2.1991, 05.6.1991, 01.11.1991 and 12.11.1991.

5. We heard the learned counsels for the parties and perused the record.

6. Indubitably, the services of the applicant were discontinued in the year 1995 and in terms of the Order passed by this Tribunal (ibid), respondents were directed to reengage the applicant subject to availability of work. The order of termination dated 18.5.1995 was not interfered with by the Tribunal, thus there is no question of continuity of his service as casual labour.

7. In the wake, the applicant cannot be considered senior to those who were given temporary status along with him and he has to be treated as

fresh appointee of 2000, thus the Original Application is found bereft of merit and is accordingly dismissed. No costs.

(Dr. B.K. Sinha)
Member (A)

(A.K. Bhardwaj)
Member (J)

October 14, 2015
/sunil/