

**CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench, New Delhi**

OA No.2344/2015

New Delhi this the 4th day of August, 2017

Hon'ble Mr. K.N.Shrivastava, Member (A)

Jai Dayal Singh

Age: 34 years

S/o Matadin

Designation : Casual Labour

R/o House No.UK/362

Shivaji Park

Alwar, Rajasthan.

- Applicant

(By Advocate:Shri M.K.Bhardwaj)

VERSUS

1. Union of India through
Secretary
Ministry of Defence
South Block, New Delhi.
2. The Adjutant General
Army Headquarter
Ministry of Defence
South Block
New Delhi.
3. Deputy Director
Supply & Transport
HQrs 10 Corps (ST)
C/o 56 APO.
4. The GOC-in-C
HQ South Western Comand
C/o 56 APO.
5. The GOC
HQrs. 10 Corps
C/o 56 APO.
6. The Officer Commanding
469, ASC Supply Depot
Alwar, Rajasthan.

-Respondents

(By Advocates:Shri Rajeev Kumar)

O R D E R (Oral)

The applicant was engaged by the respondents on 04.12.1996 and he continued to work up to 30.06.2010 and he was attending duties of LPG Appliances Mechanic-cum-Washerman/Chowkidar as per the arising vacancy. He has been craving for regular appointment for long. He approached this Tribunal for the first time in OA No.3227/2010, which came to be disposed of vide order dated 23.12.2010, with the following directions to the respondents:-

"2. With this view, the concerned authority may consider the case of the applicant and if there is possibility of his being continued, they may do so but if they decide to not continue him, they shall pass a speaking order explaining the reasons thereof after giving an opportunity of the applicant. The OA is allowed as above."

2. Thereafter his services were discontinued. The respondents did not re-engage him and consequently, the applicant filed the 2nd OA No.3202/2011, which was disposed of vide order dated 15.02.2012. The Tribunal noticed in this order that the applicant was called upon for an interview on 18.02.2011 by a Sr. Officer of the rank of Deputy Commanding Officer. After the interview, the applicant was informed that no work/job of LPG Mechanic, as on that date, was available and as and when such requirement would arise, he would be again called. The Tribunal, in order dated 15.02.2012, has made the following significant observations:-

"In the meanwhile, keeping in view his earlier experience of 13 years, the respondents may consider his case for giving him some other work depending upon his experience and administrative requirement."

3. As no relief has been granted by the respondents to the applicant, the applicant approached this Tribunal for 3rd time in the instant OA.

4. Heard the learned counsel for the parties.

5. Shri M.K.Bhadwaj, learned counsel for the applicant submitted that the applicant has served the respondents for almost 13 years which has also been noticed by this Tribunal in order dated 15.02.2012 in OA No.3202/2011. He further contended that despite observation made by this Tribunal that his case could be considered sympathetically, no action has been taken by the respondents so far. He specifically drew my attention to para 44 of judgment of Hon'ble Supreme Court in Secretary, State of Karnataka & Ors. Vs. Umadevi & Ors. 2006 IV AD (S.C.) 328, which is reproduced below.

"44. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. NARAYANAPPA (supra), R.N. NANJUNDAPPA (supra), and B.N. NAGARAJAN (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

Shri M.K.Bhardwaj submitted that the respondents may be directed to reconsider the case of the applicant in terms of the above judgment.

6. Per contra, Shri Rajeev Kumar, learned counsel for respondents submitted that it is an admitted fact that the applicant has worked under the respondents from 1996 to 2010. He, however, submitted that an LPG Appliances Mechanic-cum-Washerman/Chowkidar is employed occasionally and that the washerman experience certificate was given to the applicant on

the basis of temporary work performed by him. He was washing and ironing the clothes of officers/JCOs. He further submitted that the applicant was called for an interview pursuant to the direction contained in the order of this Tribunal dated 23.12.2010 in OA No.3227/2010. Thereafter, he was offered alternate work of casual labour but after a few days, he abandoned the casual work without any information to the respondents. He thus submitted that this OA may be dismissed.

7. The contention of the respondents that the applicant was given alternate work as casual labour was vehemently denied by Shri Bhardwaj. In this regard, he invited my attention to the pleadings in the rejoinder filed on behalf of the applicant.

8. I have considered the arguments of learned counsel for the parties and perused the records. Indisputably, the applicant has worked under the respondents from 1996 to 2010 for about 13 years. The arguments of Shri M.K.Bhardwaj that the applicant case could be re-examined by the respondents in terms by observations of Hon'ble Supreme Court in para 44 of its judgment in Umadevi (supra) merits consideration.

9. I, therefore, dispose of this OA with a direction to the respondents to re-examine the case of the applicant, keeping in view the observation of Hon'ble Supreme Court judgment in Umadevi (supra). The respondents are further directed to consider the case of the applicant in a most sympathetic manner. No costs.

(K.N.Srivastava)
Member (A)

