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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 2000/2003

This the *17th* day of December, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Pramod Kumar
P/T Sweeper, Group-D,
S/o Sh. Devi Dayal,
R/o 3227, Gali Schoolwali,
Pahar Ganj, New Delhi.

(By Advocate: Sh. Raj Singh)

Versus

1. G.N.C.T. of Delhi,
through its Chief Secretary,
Players Building,
I.P.Estate, New Delhi.
2. The Director of Education,
Directorate of Education,
G.N.C.T., Old Secretariate,
Delhi.
3. The Dy. Director of Education,
Distt. Central
Old Bharti Mahilla College,
Jhandewalan, New Delhi.
4. The Principal,
Govt. Boys Senior Sec. School,
Rani Jhansi Road,
Delhi.

(By Advocate: Sh. Mohit Madan proxy for
Mrs. Avnish Ahlawat)

O R D E R

By Sh. Kuldip Singh, Member (J)

Applicant has challenged order dated 16.11.2002 vide which the applicant was informed about disengagement of his duties as part time sweeper.

2. Applicant alleges that he was engaged as part time sweeper on 25.8.99 vide Annexure A-2 and his name was sent on requisition of the respondents by Employment Exchange. He was considered by a duly constituted selection board and the applicant fulfilled all the terms and conditions required for

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the post as per recruitment rules. It is further stated that still the work is available and as such disengagement of the applicant is an utter violation of principles of natural justice. Since one another person has been appointed in his place, so the applicant is entitled to be reinstated.

3. OA is being contested. Respondents in their reply pleaded that since they are running large number of schools and the posts in each school depending upon the strength of the students are sanctioned every year from the Principal to the bottom that is Class IV employees. But in some of the schools the District Officers or the Principals have been appointing individuals as part time on Group 'D' posts on a consolidated salary without adhering to the recruitment rules or without even advertising the post. This was brought to the notice of Director Education, Delhi. It is also pleaded that the part time workers are generally seasonal workers whose services are engaged for part time 2-3 hours in a school for six months in a year and there are recruitment rules for filling up the post of Group 'D' which provide 50% by direct recruitment and 50% from the part time employees who have served as part time worker in the local office of Delhi Administration or the schools or Director of Education and from time to time steps are taken to regularise those workers.

4. It is further stated that number of public interest litigations have been filed in the High Court bringing to the notice the poor sanitary conditions and cleanliness in the schools. So keeping in mind various observations made by the High Court, decision has been taken to give sanitation work to private agencies. It is further submitted that there is

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procedure for engaging part time workers. However, some appointments have been made at the level of Education Officer at the Zonal office inspite of ban on engaging part time employees issued on 16.9.99 in compliance of the order dated 21.10.98. After it was brought to the notice of the respondents that some appointments have been made de hors the rules so directions were issued to the concerned officer to disengage part time workers engaged after 21.10.98. It is further submitted that the applicant herein was also engaged after the imposition of the ban and thus has no legal right to continue as part time workers. It is further stated that part time workers are not engaged for the entire years rather for the period 1st March to 30th April and from 1st July to 30th October no part time worker is engaged. In this case since the applicant has been engaged after the imposition of the ban was engaged is de hors of the rules and applicant is not entitled to any relief.

5. I have heard the learned counsel for the parties and gone through the record.

6. Counsel for applicant has referred to Annexure A-4 which prescribes instructions regarding appointment of casual labours and part time workers which simply prescribes that those officers who had been engaging the part time workers without following the due procedures their action would be moved seriously. After referring to this counsel for applicant submitted that in this case applicant was sponsored by Employment Exchange. He was selected by a duly constituted selection board and is being paid out of contingency fund so there is nothing bad about his appointment and since he has been working for such a long time he cannot be engaged.



7. On the contrary, counsel for respondents submitted that applicant had been engaged on 25.8.99 whereas a ban had been issued on 21.10.98, so the appointment made by the zonal level officers is de hors of the rules and against the ban so the appointment itself was void and ab initio as such applicant has no right to be engaged. Counsel for applicant had also referred to a letter Annexure-5 which prescribes for grant of sanction to 112 posts of part time workers from time to time basis and submitted that since sanction is also there which will go to show that work is also available so applicant has a right to be engaged.


8. I have considered the rival contentions of the parties and have gone through the record. The allegation that the applicant had been engaged after having been sponsored through Employment Exchange by a selection board is not denied. However, it is submitted that the applicant has been engaged only after the imposition of the ban in recruitment of part time workers issued on 21.10.98. Thus, it is submitted that the appointment itself was void and ab initio. I have also seen the ban issued by the respondents for appointments of part time workers. It goes to show that until all the surplus staff from DSMDC and DEDA stand absorbed from various departments of Govt. of NCT of Delhi no fresh recruitment can be made. Meaning thereby there was already surplus staff available with the Govt. of NCT of Delhi and that is why a ban was imposed. Thus the appointment of the applicant made by the respondents is in clear violation of the ban issued by the Principal Secretary (Services). So I find that the applicant has no right to claim that he had been appointed in a regular manner and as such he has no right to be reengaged.

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The disengagement letter also shows that the applicant has been disengaged because of the imposition of ban by the Finance Department dated 21.10.98 itself.

9. In view of above discussion, I find that since the applicant had been appointed in violation of the ban imposed by the Department of Finance, so he has no right to continue with the job. Thus, the OA is liable to be dismissed.

10. Accordingly, I order that OA has no merits and is dismissed. No costs.


(KULDIP SINGH)
Member (J)

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