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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1985/2002

New Delhi, this the 6th day of May, 2003

Hon'ble Sh. Shanker Raju, Member (J)

Inderjeet S/o Sh. Kartar Singh
C-6/127, Sultanpuri, New Delhi - 41.

-Applicant

(By Advocate Shri M.L. Chawla)

V E R S U S

Union of India through

1. Secretary
Deptt. of Land Resources
Ministry of Rural Development
Nirman Bhawan, New Delhi.

2. Under Secretary (Administration)
Deptt. of Land Resources
Ministry of Rural Development
Nirman Bhawan, New Delhi.

-Respondents

(By Advocate Sh. B.S.Jain)

O R D E R (ORAL)

By Shri Shanker Raju,

In this OA applicant has sought direction for consideration of his case for grant of temporary status and further engagement in preference to juniors and outsiders.

2. Applicant earlier filed OA-2525/2001 before this court seeking grant of temporary status and engagement in preference to juniors and outsiders.

3. Applicant was engaged through employment exchange on casual basis in the year 1993 as well as in 1994. The aforesaid OA was disposed of on 26.2.2002 with the direction to applicant to make a representation as per rules for re-engagement as and when respondents decide to engage casual labours and thereafter on engagement to work out his rights for grant of temporary status as per DOPT OM dated 10.9.93.

4. In OA-2158/99 filed by the counter-parts in the Ministry of Rural Development, juniors have been re-engaged as admitted in their reply filed in the aforesaid OA and despite senior applicant was neither engaged nor accorded temporary status.

5. Shri M.L. Chawla, learned counsel for applicant contended that as applicant's juniors have been accorded temporary status he cannot be arbitrarily discriminated which would be in violation of Articles 14 and 16 of the Constitution of India. It is stated that the earlier OA-2158/99 has been filed by the casual workers of the same department and in the latter OA aforesaid OA was not brought to the notice. He places reliance on a decision of the Apex Court in State of H.P. v. Suresh Kumar Verma, 1996 (33) ATC 336 to contend that directions have been issued to consider petitioner therein after accord of necessary relaxation.

6. On the other hand, respondents' counsel Sh. B.S. Jain contended that as applicant was not in engagement on 1.9.93 on casual basis in the light of the decision of the Apex Court in Union of India & Others v. Mohan Pal, 2002 (4) SCALE 216 as the Scheme of DOPT of 1.9.93 has been observed to be one time applicant cannot be accorded temporary status.

7. In so far as direction for re-engagement is concerned, doctrine of res judicata is invoked contending that applicant on similar claim as contained in the present OA has filed OA-2525/2001, which was disposed of, such relief on the same cause of action, when the earlier matter

has attained finality and conclusive between the present parties, present OA is barred by the doctrine of res judicata.

8. Moreover, by referring to the decision of Delhi High Court in D.S.I.D.C. v. J.K. Thakur, SLJ 2002 (2) 29 it is contended that a daily wager cannot be equated with casual labour and has no status in the light of the ban on casual labour engagement and the fact that applicant was not available from 1994 to 1998 for the work, his claim is to be considered in the same department in the event it is decided to engage casual workers.

9. In the rejoinder by resorting to the annual report of 2001-02 it is stated by Sh. Chawla that Department of Land Resources comes under the Ministry of Rural Development as a nodal Ministry.

10. I have carefully considered the rival contentions of the parties and perused the material on record.

11. In the light of the decision in Mohan Pal's case (supra) and as applicant was not in engagement on 1.9.93 has no legal valid claim to be accorded temporary status.

12. In so far as re-engagement is concerned, in the earlier OA-2525/2001 he has approached this Court and directions have been issued that in the event respondents are engaging casual labour it will be open to applicant to

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(4)

submit his application. Seeking relief on the same cause of action would certainly be barred by the doctrine of res judicata.

13. Moreover, none of the juniors has been found to be engaged by the respondents. In so far as the same department is concerned, however, re-iterating the earlier directions that in the event the respondents decide to engage casual labours, applicant's case would be considered on his application in accordance with rules and instructions, the OA is found bereft of merit and is accordingly dismissed. No costs.

S. Raju
(SHANKER RAJU)
MEMBER (J)

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