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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.2435 of 2002

New Delhi, this the 25th day of April, 2003

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

1. Shri Tikam Singh
S/o Shri Uday Partap Singh
2. Shri Vinod Kumar
S/o Shri Suraj Bhan
3. Shri Parvinder Kumar
S/o Shri Gurbalass
4. Shri Sunil Kumar
S/o Shri parkash Bidla

Casual Labours
under Director (PCP)
Central Water Commission
Sewa Bhawan,
R.K. Puram,
New Delhi.

-APPLICANTS

(By Advocate: Shri B.S. Mainee)

Versus

Union of India: Through

1. The Chariman
Central Water Commission
Sewa Bhawan, R.K. Puram
New Delhi.
2. The Director
PCP Directorate
Central Water Commission
R.K. Puram
New Delhi.


-RESPONDENTS

(By Advocate: Shri B.S. Jain)

O R D E R

By Hon'ble Mr.Kuldip Singh, Member(Judl)

This OA has been filed under Section 19 of the A.T. Act, 1985, as the applicants have a grievance that the respondents are threatening to terminate their services and treating the reinstatement of the applicants as date of original appointments although the earlier orders of termination of their services were quashed by




the Tribunal vide order dated 8.6.2001 and thereafter the applicants had been reinstated because the termination orders had been quashed.

2. However, the main relief of the applicants is that the respondents be directed to grant proper seniority and consequential benefits to the applicants, as given to their juniors who had been appointed in the year 1993.

3. The facts in brief are that the applicants were engaged as casual workers on daily rate basis, i.e., applicant nos. 1 to 3 were engaged in April 1992 whereas the applicant no.4 was initially engaged in 1993.

4. It is further stated that they were duly engaged after they were duly sponsored by the Employment Exchange and they had been working continuously till 12.4.1999 when by passing a verbal order they were disengaged. The applicants challenged the same before this Court by filing an OA, which was registered as OA No. 2137/2000. The said OA was allowed with the following directions:-

"Under these circumstances I feel that this OA deserves to be allowed. Accordingly I allow this OA and quash the oral order of termination with a direction to the respondents to reengage the applicants in preference to juniors and fresher. However, the applicants shall not be paid salary for the period they have not performed the duty. Applicants shall be reengaged within a period of two months from the date of receipt of a copy of this order."



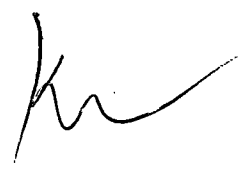
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5. Now the case of the applicants is that since the earlier oral orders of termination of their services had been quashed and the applicants have been reengaged so they are entitled to have their seniority from back date as if the order of termination has been put as non-est.

6. The respondents contested the OA. The respondents pleaded that the OA is barred by res judicata. Since the applicants had asked for quashing of termination order but the court while allowing the OA did not allow back wages to be paid to the applicants and the applicants were to be reengaged so the relief of seniority which the applicants are now claiming is barred by principle of res judicata. Since they were not allowed back-wages so they cannot claim that period to be counted.

7. Besides that the respondents also pleaded as per the judgement of the Hon'ble High Court of Delhi in the case of Delhi State Industrial Development Corporation Limited Vs J.K. Thakur reported in AIR 2002 (2) 29 and submitted that the High Court in that case had held that the casual labour does not enjoy the status nor he enjoys protection of any rules so claim for seniority cannot be allowed.

8. I have heard learned counsel for the parties and gone through the records.



(4)

9. The fact that the applicants were reengaged by virtue of an order passed by this Tribunal was not in dispute. However, a perusal of the judgement goes to show that this Court has quashed the termination orders but the court had not directed the respondents to reinstate the applicants rather the directions were given to reengage the applicants in preference to juniors and freshers. There was no direction that the applicants should be granted seniority and particularly so when it was also observed that the applicants will not be paid for the period they had not performed the duties. Had the court allowed the reinstatement then probably the case would have been different and the applicants would have been entitled for status quo ante. Even otherwise as per the law laid down by the High Court, wherein it has been observed as follows:-

"Daily Rater - Termination - Enquiry - Worked as daily rater for seven years, terminated for taking bribe - Claims he be deemed regular by virtue of his service, by virtue of his discharging higher liability - Case law discussed - Found not possible to treat him as a deemed employee in any of the cases - Urges since he was removed for bribery so enquiry under Rules be held - Protection of Rules available to those who enjoy a status and not otherwise, hence cannot be agreed - Held his termination cannot be faulted."


10. Though Shri Mainee appearing for the applicants submitted that since the order of termination had been quashed so it automatically flows that the applicants are entitled to be reinstated and the status quo ante should be granted. However, in my view, since this court had particularly directed the respondents to reengage the applicants. It had only stated that the respondents shall reengage the applicants and it is because of reengagement they had been given appointment.



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(5)

Even otherwise, applicants had worked as a casual labourers and by working as casual labours, they do not get any protection with regard to seniority etc. However, I may observe that whenever any benefits is to be granted by the respondents on the basis of length of service then the total length of service of the applicants as casual labourers shall be taken into consideration.

11. OA stands disposed of with the above directions. No costs.


(KULDIP SINGH)
MEMBER(JUDL)

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