



CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.3331/2002

New Delhi, this the 1st day of August, 2004

Hon'ble Shri S.K. Naik, Member(A)

Bhupender Pal
M-59A, Mausam Bhavan
Lodhi Road, New Delhi .. Applicant
Mukesh Thakur,
(Shri Advocate)

versus

Union of India, through

1. Secretary
Department of Power
Ministry of Energy, Shram Shakti Bhavan
New Delhi
2. Dharamvir Singh
D-105, Loni Border
Indirapuram, Ghaziabad, UP
3. Jai Bhawan
I-500, Shikarpur, Anandvas, New Delhi .. Respondents

(Shri A.K.Bhardwaj, Advocate for R-1 and Shri Yogesh Sharma,
Advocate for R-2 and R-3)

ORDER

Applicant's challenge in the present application is to the order dated 27.9.2002 in which Respondents No.2 and 3 have been shown above him in the seniority position. According to the applicant, he being the senior most by virtue of his engagement with the respondent-department as casual labour w.e.f. 1.5.89, his name should have been reflected above these private respondents in the aforesaid list dated 27.9.2002.

2. Brief facts giving rise to the impugned order are that applicant along with some other persons were engaged as daily wagers from 1.5.89 by the respondent-department and their services were disengaged on 14.10.89. He was re-engaged alongwith some



K28

others on 30.10.89 while some more were engaged on 30.12.1989. A provisional seniority list of daily wagers was issued on 27.1.98 showing applicant's name at Sl.No.11. This was prepared keeping in view their date of birth. After inviting objections, a revised list was issued on 6.3.1998 and again on 29.8.2000 keeping in view the observations of the Selection Committee and advice of DoPT. The list dated 29.8.2000 was challenged by the Respondents No.2 and 3 through OA 1672/2000. This OA was allowed by order dated 7.12.2001 holding that the first seniority list dated 27.1.98 was correctly prepared. CW 5648/2002 filed on behalf of Union of India challenging the order of the Tribunal was dismissed by the Delhi High Court vide order dated 6.9.2002 concluding therein that there was no ground to interfere. Pursuant to this, respondents have issued the impugned seniority list dated 27.9.2002 in which applicant's name is shown at Sl.No.9.

3. Learned counsel for the applicant has submitted that since the applicant was engaged initially w.e.f. 1.5.89 and again from 30.10.89 while respondent No.2 was re-engaged from 30.12.89, his name should have been above him in the seniority list of 27.9.2002. According to him, R-2 concealed the fact of his re-engagement later than the applicant and obtained the aforesaid order dated 7.12.2001 in OA 1672/2000.

4. On the other hand, counsel for the respondents has submitted that the first seniority list dated 27.1.98 was prepared according to the date of engagement and then among those engaged on the same date according to their date of birth. Applicant's date of birth being 15.10.70, he was rightly shown at Sl.No.11 in which his date of engagement has been reflected as 1.5.89, the same as that of Respondents No.2 and 3. When this list has been held to be correct by the Tribunal vide its order dated 7.12.2001 (supra) and also upheld by the Delhi High Court, applicant cannot challenge the impugned order dated 27.9.2002. He has also drawn my attention to the last para of the impugned order in which it has been mentioned that the issuance of seniority list is in pursuance of judicial orders and do not stipulate any policy of the Government of India regarding determination of seniority of daily wages and the seniority of the future daily wagers, if any, will be determined as per the policy of the government prevailing at that time.

5. On the point raised by the learned counsel for the applicant that the private respondents No.2 and 3 have concealed the fact of their re-engagement on a date later to

O/Patt

23

that of the applicant thereby to obtain an order in their favour, I find from the judgement dated 7.12.2001 that the Tribunal has upheld the seniority list prepared on 27.1.98 stating that the said list has been prepared "in tune with the accepted principles", meaning thereby that the same has been prepared on the basis of merit list prepared by the Selection Committee and therefore held the list to be correct. In this background of the matter, it cannot be said that any order has been passed at the back of the applicant. That being the position, I have no reason to take a different view than that of Tribunal's order dated 7.12.2001 which has been upheld by Delhi High Court vide order dated 6.9.2002, thereby providing finality of the Tribunal's order. Under the circumstances, the OA is dismissed, with no order as to costs.

~~1/23/02~~
(S.K. Naik)
Member(A)

/gtv/