

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.987/2002

New Delhi, this 11th day of November, 2003

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

(17)

Kapil Dev
65-C4, Rly Colony
Tughlakabad, New Delhi

.. Applicant

(Shri R.N. Singh, Advocate)

versus

1. Director
Central Road Research Institute
(Drawing & Design Section)
Mathura Road, New Delhi
2. C.A.O.
Central Road Research Institute
Mathura Road, New Delhi
3. Executive Engineer
Central Road Research Institute
Civil Section
Mathura Road, New Delhi
4. Director
CSIR, Anusandhan Bhavan
Rafi Marg, New Delhi

.. Respondents

(Ms. Neelam Thakur, Advocate)

ORDER

By filing this OA, the applicant has challenged the oral order of discontinuance of his service by the respondents w.e.f. 10.7.2001 and sought direction to the respondents to reinstate him in service and regularisation thereof in terms of Casual Labourers (Grant of Temporary Status & Regulation) Scheme of Government of India, 1993.

2. According to applicant's version, he was appointed as Helper in the Civil Section of Central Road Research Institute on 2.2.2000 on casual basis against a permanent post and his term was extended by a written order till the post was filled up by a regular appointment.

For

However, he has not annexed any written order in this regard, as according to him, order of extension had been misplaced by him. He has contended that in terms of the aforementioned Scheme he is entitled to be regularised as he had put in more than one year service continuously under the respondents. He has also placed reliance on the decisions of the apex court in State of Haryana V. Piara Singh 1992(4) SCC 188 and Bhagwati Devi & Ors. Vs. Delhi State Mineral Development Corpn. 1990(1) SCC 361 in support of the prayer made by him.

3. Respondents in their reply have opposed the claim inasmuch as that the applicant was never directly engaged or appointed by them and that he was engaged through a private contractor M/s. A.N. Kapoor as and when need arose and therefore there was no relationship of employer and employee between the applicant and the respondents. According to them, a job contract to M/s. A.N. Kapoor was initially awarded in the year 1999 and an agreement dated 30.9.1999 was duly signed between the Central Road Research Institute, New Delhi, a constituent Unit of CSIR and M/s. A.N. Kapoor for providing manpower at CRRI main campus and its colony at Maharani Bagh, New Delhi for Malis, Electricians, Mason, Helper (unskilled) and Safaiwala and the work awarded was not closely connected with the main research carried on by the respondents. Also the work was not perennial in nature warranting indulgence by this Tribunal. Engagement of the applicant was entirely on the option of the said contractor. No order for engagement of the applicant or his further continuation was ever issued by the respondents. It is

For

further averred by them that the documents annexed by the applicant to the OA are tampered and forged ones. Therefore there is no question of oral discontinuance of the service of the applicant nor the aforementioned Scheme is applicable to the applicant.

4. Drawing my attention to the decision dated 30.8.2001 of the apex court in the case of Steel Authority of India Ltd. and others etc. etc. v. National Union Water Front Workers etc. etc. JT 2001 (7) SC 268, the learned counsel appearing for the respondents has submitted that after the issuance of a prohibition notification under section 10 (1) of the CLRA Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labourer in regard to his conditions of service, the Industrial Adjudicator will have to consider the question whether the contractor has been interposed for the supply of contract labourers for the work of the establishment under a genuine contract, or is a mere ruse/camouflage to evade compliance of various beneficial legislations so as to deprive the workers of the benefits arising thereunder. In view of this, this Tribunal has no jurisdiction to entertain the present OA, the counsel would contend.

5. I have heard the learned counsel for the contesting parties and carefully gone through the pleadings available on record. In so far as respondents' contention that the applicant has furnished tampered and forged documents in support of his claim is concerned, it is not for the Tribunal to conduct any probe in this regard. However, the fact remains that the applicant has

3
3

not been able to produce any document to show that he was directly engaged or appointed against a regular vacancy by any of the officer of the respondent-organisation. In view of this position, he cannot claim regularisation in terms of the aforecited Scheme as the same is not applicable in his case. That apart, the judgements relied upon by the applicant would not render him any assistance as they are distinguishable inasmuch as the issue involved in them was relating to replacement of an ad hoc employee by another ad hoc employee. On the other hand, we are bound by the latest ruling of the apex court in the case of Steel Authority of India(supra).

6. In the result, I find no merit in the present OA and the same is accordingly dismissed. No costs.

S.K. Naik
(S.K. Naik)
Member(A)

/gtv/