

Original Application No.3045 of 2002

New Delhi, this the 27th day of August, 2003

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

Kashi Nath Sharma
S/o Shri Rash Tiwari
C/o Shri Ram Tiwari
RZ-133 Gali No.2 Near MCD Primary School,
Mahavir Enclave Part-II,
New Delhi-110 058. ...Applicant

By Advocate: Shri M.L. Chawla.

Versus

1. Union of India through
Secretary,
Ministry of Non-Conventional Energy,
Sources Block, 14, CGO Complex,
Lodhi Road,
New Delhi-110 003.
2. Under Secretary (Admn.)
Ministry of Non-Conventional Energy,
Sources, CGO Complex Block-14,
Lodhi Road,
New Delhi-110 003.
3. Caretaker
Ministry of Non-Conventional Energy
Sources, Block 14, CGO Complex,
Lodhi Road,
New Delhi-110 003. ..Respondents

By Advocate: Shri R.N. Singh.

O R D E R

The applicant in this OA prays for a direction to the respondents to consider the case of the applicant for engagement as casual labourer in preference to juniors and freshers as per the assurance given by the respondents vide Annexure A-I and further direction to the respondents to consider his case for regularisation.

2. The facts in brief are that the applicant is alleged to have been engaged as Daily Rated Casual Labour on 1.9.99. The applicant had filed an OA 1436/2001 praying, inter alia, for grant of temporary status but

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the same was dismissed and the order dismissing the earlier OA has been upheld by the Delhi High Court.

3. The applicant submits that vide order dated 7.6.2001 the applicant was called upon to appear for being engaged but he was not allowed entry into the office as such the applicant submits that since his juniors have been engaged but he has been left out, so he should be engaged.

4. The respondents are contesting the OA. The respondents submit that the applicant has not approached the court with clean hands and has suppressed the material facts and since the applicant had earlier also filed the OA claiming the same relief, so the OA should be dismissed on this ground alone.

5. The respondents further submit that one Shri Kashi Nath Sharma S/o Shri Rash Vihari Sharma had worked in the Ministry from October, 1999 to March, 2001 for 119 days.

6. It is further submitted that the casual worker is engaged on requirement basis for specific period and the question of principle of relative seniority is not applicable. It is denied that the respondents have arbitrarily kept the applicant away from the work. However, the applicant was informed by the respondents that he will be engaged as and when the work is available.

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7. I have heard the learned counsel for the parties and gone through the records of the case.

8. At the outset I may mention that earlier the applicant had filed an OA for conferment of temporary status in accordance with the Scheme of DOP&T 10.9.93 and since the applicant could not prove that he had worked for a particular number of days so the OA was dismissed and the order of the Tribunal has been confirmed by the Hon'ble High Court of Delhi. Though the respondents have taken a preliminary objection that plea with regard to re-engagement of the applicant has also been taken in the earlier OA so the pleadings on record filed by the respondents itself show that the applicant had taken up the same plea for reengagement earlier also wherein respondents submitted that applicant could not have taken that plea since at the time of filing of the earlier OA he was in service, as such no prayer was made to that extent.

9. However, as regards the reengagement is concerned, the respondents themselves have stated that the applicant was informed vide para 5(a) to (e) of their counter-affidavit that he would be considered for re-engagement as and when the work is available and it is also admitted that one Kashi Nath Sharma S/o Shri Rash Vihari Sharma had worked as a casual worker in the Ministry for a total number of 119 days w.e.f. October, 1999 to March, 2001 and applicant has also relied upon a document of the respondents wherein he was informed and was called upon for re-engagement. However, the applicant has submitted that he did go to the office of

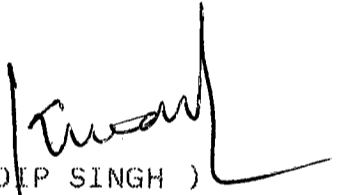


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respondents in response to the call letter sent by the respondents but he was not allowed to enter into the premises of the respondents. This plea is not acceptable as it appears that the applicant has himself not gone there for casual work so in that eventuality some freshers or juniors may have been re-engaged, for which respondents cannot be held guilty of violation of any rules or principle of natural justice.

10. The plea of the applicant that he had gone and was not allowed to enter is not supposed by any document. Moreover, when he had a call letter with him then no one would have refused him the entry to the premises.

11. Hence I find OA is bereft of merits and the same is dismissed. No costs.


(KULDIP SINGH)
MEMBER (JUDL)

Rakesh