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Item No.28

M.A. No.265/2003 IN

M.A. No.266/2003

O.A. No.3144/2002

18.7.2003

Present : Shri M.K. Bhardwaj, learned counsel for
applicants

Shri Mohar Singh, learned counsel for
respondents

MA 265/2003 & MA 266/2003

Heard both the learned counsel for the
parties.

MA 266/2003

MA 266/2003 for condonation of delay in filing
the Misc. application No.265/2003 is allowed in the
interest of justice.

MA 265/2003

Shri M.K. Bhardwaj, learned counsel for
applicants presses MA 265/2003 in respect of the
decision passed by the Tribunal on 3.12.2002 in OA
3144/2002. According to him, the relief sought for by
the applicants in the OA was for re-engagement in
preference to the freshers and juniors while in the
decision given, the expression used is directed to
consider the applicants claim for their regularisation
along with the candidates, who have been sponsored by
the Employment Exchanged in preference to juniors and
freshers. It is, therefore, clear that directions are
for the re-engagement of the applicants in preference
to the juniors and freshers.

2. On the other hand, Shri Mohar Singh, learned counsel for respondents stated that decision has been given by the Tribunal, keeping in mind, the verdict of the Hon'ble Supreme Court in the case of Central Welfare Board & Ors. Vs. Ms. Anjali Bepari & Ors. (JT 1996 (8) S.C. 1), the relevant para of which is cited as below:-

"It is not in dispute that the project is being wound up in a phased manner and the services of the employees are being dispensed accordingly. It is stated by the learned counsel for the petitioners that no junior to the respondent was allowed to continue in the said project. It is stated that there are other projects being operated similarly, but the persons engaged therein also are continuing on temporary basis and are senior to the respondent. Therefore, she cannot be regularised in any other scheme. In view of the above stand, we direct the petitioners to continue the respondent in any other temporary scheme but keeping in mind the overall seniority of all the persons; the dispensing with the services should be on last-come-first-go basis, i.e., the juniormost incumbent has to go out first. As and when vacancies would arise, such persons whose services have been dispensed with will be taken back without following the practice of requisitioning the names of candidates from the employment exchange. They would be regularised only when regular posts are available and in accordance with the order of seniority."

3. That being the case, there is nothing incorrect effect in this case and the word regularisation has been used correctly.

4. I have considered the matter. Perusal of paras 5 and 6 of the order dated 3.12.2002 makes it clear that the same has followed the Hon'ble Apex Court order, which also relates to the re-engagement and not for regularisation. In fact the question of

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regularisation would only arise in respect of the casual workers who have already passed the stage of temporary status. It would, therefore, mean that the expression which should have been used is not for regularisation but for re-engagement in preference to the juniors and freshers. No other interpretation would be logical.

5. I, in the circumstances, allow the MA 265/2002 and direct that the respondents shall consider the case of the applicants for re-engagement in preference to the juniors and freshers, strictly in accordance with law.

(GOVINDAN S. TAMPI)
MEMBER (A)

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