

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

Original Application No. 274/2013

RESERVED ON : 16.12.2019
PRONOUNCED ON: 18.12.2019

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)
HON'BLE MS. ARCHANA NIGAM, MEMBER (A)

Kulvir Chand s/o Sh. Gopi Ram, aged about 40 years R/o Village and Post Bhagwansar, District Sri-Ganganagar (Rajasthan). Presently working on the post of Electrician in the office of GE (AF), Suratgarh, District Sri-Ganganagar (Raj).

...Applicant

(By Advocate: Shri S.K.Malik)

Versus

1. Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer (AF) Bikaner (Rajasthan).
3. Garrison Engineer, (AF), Suratgarh Distt. Sri-Ganganagar (Raj).

...Respondents

(By Advocate: Shri B.L.Bishnoi)

ORDER

Per Mrs. Hina P.Shah

The applicant has filed the present OA u/s 19 of the Administrative Tribunals Act, 1985 seeking quashing and setting aside the order dated 25.06.2013 (Ann.A/1). He also prays that the respondents be directed to regularise

the services of the applicant on the post of Electrician with all consequential benefits.

2. This is second round of litigation. In the earlier round of litigation i.e. in OA No.203/2012, the applicant had already sought a similar direction to the effect that the respondents may directed to absorb/regularise on the post of Electrician with all consequential benefits and this Tribunal after hearing the matter in detail in operative paragraph observed as under:-

“7. We have considered the judgment cited by the counsel for the applicant and the judgment of State of Karnataka and Ors. vs. Uma Devi & ors. reported in 2006 (4) SCC 1, in which it was held that in cases of such persons appointed through the contractors, no such right of regularisation exists in such employees. And for the contractual employees, part time workers and other workers, the Hon’ble Apex Court held that their services cannot be regularized. As in the present case, a representation of the applicant duly recommended by the competent authority at Annexure-A/15 is pending before the concerned authority, we therefore direct that the concerned authority shall decide the representation of the applicant within three months from the date of receipt of a copy of this order in view of the law laid down by the Hon’ble Apex Court. Further, the respondents are directed to pass a reasoned and speaking order thereafter as per law and to inform the applicant accordingly. ”

3. After going through the operative paragraph, as reproduced above, it is clear that this Tribunal has already considered the case of the applicant for regularisation and in the light of the Apex Court judgment in the case of State

of Karnataka and Ors. vs. Uma Devi (supra), the applicant was not entitled for regularisation. However, since the applicant's representation in this regard was pending, therefore, a direction to decide the same by way of passing a reasoned and speaking order as per law was given to the respondents. The competent authority of the respondent department in compliance of the directions of this Tribunal had examined the case of the applicant/his representation as per the extant rules, policy and the Apex Court judgments and after a balanced and objective assessment of the totality of the circumstance of the case, had rejected the same vide impugned order dated 25th June, 2013 (Ann.A/1).

4. During the course of arguments, the learned counsel for the applicant, in support of his claim, has relied on the following judgments of the Hon'ble Apex Court:-

- i) Nihal Singh and Ors. vs. State of Punjab & Ors., (2013) 14 SCC 65
- ii) Amarkant Rai vs. State of Bihar & Ors., (2015) 8 SCC 265
- iii) State of Punjab vs. Jagjit Singh, (2017) 1 SCC 148
- iv) Yash Pal vs. Union of India, (2017) 3 SCC 272
- v) Bharat Singh vs. Union of India, (2016) 8 SCALE 684

5. We have gone through the judgments cited by the learned counsel for the applicant, but in the facts and circumstances of the present case, these are not applicable.

6. Since the matter with regard to regularisation of service has already been considered in the earlier proceedings, therefore, the same cannot be allowed to be re-opened in the present OA. The pending representation of the applicant in this regard has also been decided as per the extant rules, policy, guidelines and the Apex Court judgments in compliance of the directions of this Tribunal. Therefore, we do not find any infirmity in the action of the respondents.

7. In these facts and circumstance, we find no merit in this OA, which is accordingly dismissed with no order as to costs.

(ARCHANA NIGAM)
ADMV. MEMBER

(HINA P.SHAH)
JUDL. MEMBER

R/