

CENTRAL ADMTNSTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

R.A. NO. 177/2002 TN OA NO. 1663/2001

NEW DELHI THIS *26th* DAY OF JANUARY 2003

Naresh Kumar & Others ... Applicants

(By Sh M K Gupta, Advocate)

VERSUS

Union of India & Others Respondents

(By Shri Madhav Panikar, Advocate)

ORDER

BY HON'BLE SHRT GOVINDAN S. TAMPT, MEMBER (A)

R.A. No. 177/2002 has been filed by the respondents in OA No. 1663/2001, seeking the review and recall of my order dated 7.12.2001, allowing the OA.

2. MA No. 1761/2002 for condonation of delay allowed.

3. OA 1663/2002, filed by 11 applicants seeking grant of temporary status, under the Casual Labourers (Grant of *Temporary* Status and Regularisation), Scheme, 1993, was disposed of by me on 7.12.2001, with the following findings:-

"5. I find that all the applicants, barring applicant No.10 Mohan Lal have completed the requisite number of days of service for grant of temporary status. The Tribunal has held in a *catena* of orders that the OM dated 10.9.1993 is an ongoing scheme which has been endorsed by Hon'ble High Court and the Hon'ble Supreme Court.

6. The OA succeeds and is allowed. Respondents are directed to take steps to regularise the applicants except applicant No.10 Mohan Lal who has not completed the requisite number of days for grant of temporary status.

(14)

these directions should be complied with within three months from the date of receipt of a copy of this order. No costs."

4. Revision applicants seek the recall and review of the order in view of the Hon'ble Supreme Court's decision in the case of Mohapatra vs. UO& Another [00044 Scale 216] holding that 1993 Scheme was an one time Scheme and that only those who were in position when the scheme was on, could get the benefit thereon, which was not the case with the applicants, OA could not have been allowed, according to the revision applicant.

5. Heard Sh. Madhav Panikkar, learned counsel for the revision applicant. Shri Panikkar argued that once the Hon'ble Apex Court had laid down the law, by clarifying the nature of the 1993 Scheme, as an one time measure, the applicant's case deserved to be rejected. On the other hand, Sh. Devesh Singh learned counsel, who appeared along with Sh. Amit Rathi referred to the decision of the Hon'ble Gujrat High court in P N Jinabhai vs. P G Venidas [ATR 1972 Guj 224] extensively quoting therefrom that a Tribunal or Court cannot review or revise its order merely because a subsequent decision has altered the position.

6. I have considered the matter. I had passed the order dated 7.12.2001, allowing the instant OA, on the specific position in law that 1993 Scheme was an ongoing measure. That was the only position which could have been taken. Now that the Hon'ble Apex Court have given their findings, on a later date in Mohan Pal's case (supra) that the scheme was only an one time measure, an error had kept

in my order and it accordingly suffered. The said decision had become faulty and has therefore to be changed.

7. Accordingly I recall and review my order dated 7.12.2001, in terms of the powers of review, contained in Rule 22(3) and direct that the OA has to fail as the applicants were not working with the respondents when 1993 Scheme was promulgated and therefore they were not eligible to get the benefit thereof. Earlier order dated 7.12.2001 is thus modified to read that the OA having no merit fails and is accordingly dismissed.

(GOMTNDAN S. TAMPT)
MEMBER(A)

Patwal/