

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1206/2001

New Delhi dated this the 17th April, 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

Sh. Dharamvir,
S/o Sh. Mast Ram,
Working as Enquiry Clerk,
in CPWD Enquiry Office,
3J Sub Division, J Division,
Sarojini Nagar, New Delhi.
(By Advocate: Sh. R.P. Kapoor)

... APPLICANT

Versus

1. Central Public Works Department,
Through its Director-General (Works)
Nirman Bhawan, New Delhi.
2. The Superintending Engineer,
Delhi Central Circle-7,
CPWD, R.K. Puram, New Delhi-1
3. The Executive Engineer,
J Division, CPWD, East Block
Level-3, R.K. Puram, New Delhi.
(By Advocate: Sh. R.N. Singh)

... RESPONDENTS

ORDER

S.R. ADIGE, VC (A)

Applicant who is a Substantive Beldar seeks quashment of the purported action of respondents to revert him from the post of Enquiry Clerk, in which post he claims his salary was fixed vide order dated 6.2.2001 and to continue to pay him in the scale of Rs. 3050-4590 in terms of aforesaid order dated 6.2.2001 with arrears.

2. Heard.

3. We note that applicant had earlier filed

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OA No. 1883/97 which was disposed of by oral consent order dated 11.12.2000 (Annexure P-7) in which both sides had agreed that the same could be disposed of in terms of the Tribunal's order dated 30.10.2000 in OA 917/99 (Hari Chander Kala Vs. CPWD & Ors., (Annexure P-8) wherein it was held that while a Beldar put to work as an Enquiry Clerk could not claim regularisation as an Enquiry Clerk ^{even} ~~was~~ if he had worked as such for a long period of time, because such regularisation was contrary to the Recruitment Rules, he was entitled to pay protection as Enquiry Clerk.

4. Respondents' counsel contended that the present OA was therefore hit by Res Judicata. Applicant's counsel urged that the present OA was not hit by Res Judicata, because while in OA No. 1883/97 he had sought regularisation as Enquiry Clerk, in the present OA he has challenged the purported action of respondents in reverting him as Beldar.

5. We have considered the matter carefully.

6. The issue of pay protection as Enquiry Clerk would arise only if applicant was reverted from the post of Enquiry Clerk to his substantive post, and therefore when applicants earlier OA No.1883/97 was disposed of by oral consent order dated 11.12.2000 in terms of the Tribunal's order dated 30.10.2000 in OA 917/99 H.C.Kala Vs. CPWD & Ors. it cannot be said that the question of applicant being

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reverted from the post of Enquiry Clerk was not in issue before the Tribunal.

7. Under the circumstances, we hold that the present OA is squarely hit by Res Judicata and is accordingly dismissed.

8. Before parting with the case, we note that in OA No.30/2001 Jai Prakash & Ors.Vs. DG CPWD & Ors. and connected cases, applicants who were also Beldars, ^{and} who had been put to work as Enquiry Clerk, had sought regularisation as Enquiry Clerks. Those OAs were disposed of by common order dated 1.10.2001 whereby the OAs were dismissed. Against that order dated 1.10.2001 applicants Jai Prakash & Ors. filed CMP 11069/2001 and 6442/2001 in Delhi High Court, where certain additional pleas were taken. As those additional pleas had not been taken before the CAT, the Delhi High Court by its order dated 20.12.2001 allowed applicants to withdraw the petition which was dismissed as withdrawn with liberty to those applicants to approach the Tribunal afresh without bar of limitation coming in the way. We are informed that accordingly a fresh OA bearing no. 55/2002 has been filed which is coming up for hearing before a Bench of the Tribunal shortly.

9. We make it clear that in the event that the aforesaid OA No.55/2002 succeeds in ^{whole?} ~~which~~ or in

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part, and results in certain benefits being conferred on those applicants, nothing contained in the present OA will preclude respondents from extending the same benefits to the present applicant subject to his being similarly placed.

10. Subject to what has been stated in para 9 above, the OA is dismissed. Interim order if any are vacated. No costs.

S. Raju

(Shanker Raju)
Member (J)

S.R. Adige

(S.R. Adige)
Vice Chairman (A)

/kd/