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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1463/2001

New Delhi, this the 14th day of February, 2002

Hon'ble Shri Govindan S.Tampi, Member (A)

Shri Kirach Pal
S/o Shri Gian Singh
R/o C/o Radhey Shyam F-164,
Double Storey Quarter
Idgah Road, Delhi.

...Applicant

(By Advocate Shri Anil Singhal)

V E R S U S

UNION OF INDIA : THROUGH

1. Secretary
Department of Industrial Development
Ministry of Industry
Udyog Bhawan, New Delhi.
2. The Director
Small Industries Service Institute
Ministry of Industry
Department of Industrial Development
Okhla, New Delhi.
3. The Assistant Director (Admn)
Govt. of India, Ministry of Industry
Small Industries Service Institute
Okhla, New Delhi.

...Respondents~

(By Advocate Shri M.K.Bhardwaj,
proxy for Shri A.K.Bhardwaj)

O R D E R

By Hon'ble Shri Govindan S.Tampi,

Alleged inaction of the respondents in not re-engaging the services of the applicant is under challenge in this OA.

2. Heard S/Shri Anil Singhal and M.K.Bhardwaj, ld. counsel for the applicant and the respondents respectively.

3. As indicated in the OA, the applicant had worked as a Casual Labour with the respondents w.e.f. 3-5-1989 till 21-4-1995 with commercial breaks. As he was not considered for grant of temporary status inspite of having completed 240 days in terms of 1993

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Scheme. He filed OA No.1330/95, which was disposed of on 14-5-1996 in his favour. Still the respondents had taken no action at all. At the same time, a number of freshers were engaged by the organisation which was totally improper and illegal. This was inspite of personal assurances to him that his case would be considered favourably by engagement as a casual worker and the applicant's readiness to perform any job of casual labour nature. The applicant also refers to the decision of the Hon'ble Apex Court in the case of State of Haryana Vs. Piara Singh (1992 (4) SCC 118). The above was forcefully reiterated by Shri Anil Signal, ld. counsel.

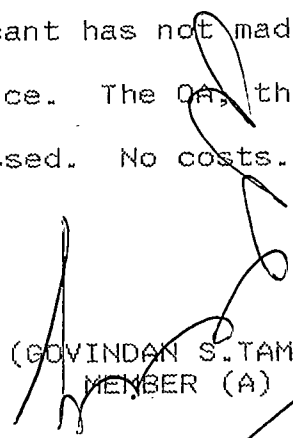
4. Fervently contesting the above, Shri M.K.Bhardwaj, ld. proxy counsel for the respondents points out that while the applicant had been engaged as a casual worker between 1989-90 to 1995, he had not completed 240 days in any period of continuous 12 months. Still on the basis of the Tribunal's decision dated 28-5-1996 in OA 1330/95, he was offered the post of Sweeper on 12-8-1996 and 19-12-1996, but he had refused the same. The respondents cannot be forced to give the applicant a post of his choice. OA, therefore, deserves to be dismissed, pleads the respondents.

5. I have considered the rival contentions. What the applicant seeks is his re-engagement and grant of temporary status in accordance with Rules and in preference to his juniors and freshers and this benefit has been directed to be given to him by the Tribunal, if he is not ineligible in its order dated 14-5-1996 issued while disposing of OA No.1330/95. That being the case, what remains to be done is to see

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whether the respondents have so acted. The applicant was originally engaged between 3-5-1989 and 2-2-1990 for 197 days and this period was not sufficient to entitle him for temporary status. Second time, he was engaged from 7-6-1994 to 21-4-1995 for 215 days, which had given him entitlement for grant of temporary status. The same was also the benefit granted to him by the Tribunal. It is seen that following the decision of the Tribunal, the respondents have offered him the post of Sweeper by their orders dated 12-8-1996 and 19-12-1986, both of which had been refused by him by his letters on 19-8-1996 and 3-9-1997, not being satisfied by the post. The respondents have thus acted properly and it is the applicant who has shown reluctance to take up the job offered. The applicant cannot have any choice as to the post, only which he would accept. He could not have done so. Having refused the offer twice, he cannot seek the endorsement of the Tribunal for a fresh posting of his choice. Respondents cannot be accused of any inaction, as alleged.

6. Applicant has not made out any case in law for ^{Tribunal's} ~~own~~ interference. The OA, therefore, fails and is accordingly dismissed. No costs.


 (GOVINDAN S. TAMPI)
 MEMBER (A)

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