

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2587/2001

New Delhi this the 27th day of May, 2002.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Prakash Chand,
Sh. Pop Singh,
R/o H.No.1231, Tuglakabad,
New Delhi.

-Applicant

(By Advocate Shri Yogesh Sharma)

-Versus-

1. Union of India through
the Secretary,
Govt. of India,
Ministry of Urban Development,
New Delhi.

2. The Chief Engineer,
C.P.W.D., Govt. of India,
Nirman Bhawan, New Delhi.

3. The Superintending Engineer,
Coordination Circle (E),
CPWD, New Delhi.

-Respondents

(By Advocate Shri Ashwani Bhardwaj, proxy for Sh. Rajeev~
Sharma, Advocate)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Heard the parties. Applicant was initially engaged in 1981 as Pump Operator in CPWD. His services were terminated on an alleged misconduct on 25.6.83, against which OA-2344/89 was filed. The Tribunal by an order dated 11.12.92 issued the following directions:

"5. We have gone through the facts of the case and heard the learned counsel for both the parties. Schemes for regularisation of casual workers have been drawn up by the various departments of the Government under the directions of Supreme Court and the Central Administrative Tribunal in a number of cases and the Department of Personnel and Training's instructions dated 7.6.88. The learned counsel for both parties agreed that the interest of justice would be served in this case, if the name of the applicant is entered in the Live Casual Labour Register and he is given a chance again, whenever a vacancy for casual labourer occurs. He shall be considered for regularisation in due course in his turn. We order so accordingly."

2. In compliance thereof, applicant was re-engaged as Assistant Pump Operator vide order dated 5.9.94 and has been continuously since then. In 1997 respondents have conducted a trade test where the applicant appeared and had qualified the same. His grievance is that in pursuance of a decision of the High Court several juniors have been regularised whereas the applicant has been meted out a differential treatment, which is in violation of Articles 14 and 16 of the Constitution of India. It is also stated that the period from 25.6.83 to 5.9.94 should be reckoned for the purpose of seniority while according regularisation to the applicant against a Group 'D' post. Learned counsel for the applicant stated by placing reliance on the decision of the Apex Court in State of Haryana v. Piara Singh & Ors., 1992 (4) SCC 118 that if the work charged employees and casual labours have worked for a fairly long period a presumption arises that there is regular need for their services and it is obligatory upon the respondents to regularise their services after their having passing the trade test.

3. On the other hand, respondents' counsel contended that the juniors have been regularised in pursuance of the directions of the High Court and the applicant if have any grievance should have approached the High Court for redressal of his grievance. It is also contended that in earlier OA the Tribunal has not issued any direction to treat the period from 25.6.83 to 6.9.94 as continuous service to be reckoned for the purpose of seniority, as such his seniority is to be reckoned from 6.9.94 and as he has passed the trade test and no junior to him has been engaged after 7.9.94 and regularised, there is no question of any discrimination or differential treatment

meted out to him. As per the Scheme of DOP&T of 1993 regularisation is to take place strictly in accordance with the seniority. As such, as and when the turn of the applicant would come he would be considered for regularisation against a Group 'D' post.

4. I have carefully considered the rival contentions of the parties and perused the material on record. It is not disputed that the applicant has assailed his termination in an earlier OA-2344/89, where directions have not been issued to re-instate him and to accord him seniority for the period from 25.6.83 to 6.9.94, rather it has been directed to re-consider the applicant as a chance for being engaged as casual labour and further regularisation to be accorded in his turn as per his seniority. As the period from 25.6.83 to 6.9.94 has not been decided as spent on duty for the purpose of reckoning seniority or for any other purpose his seniority is to be reckoned from 7.9.94 on his re-engagement and accordingly the regularisation is to be accorded as per his seniority.

5. In this view of the matter, present OA is disposed of, for the aforesaid reasons, with a direction to the respondents to consider the applicant for regularisation as per the extant rules and instructions and in the event any of his junior has been regularised, having regard to his seniority w.e.f. 7.9.94, he shall also be entitled for regularisation from ^{that} date, with all consequential benefits. No costs.

S. Raju

(Shanker Raju)
Member (J)

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