

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2776 of 2001

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New Delhi, this the 13th day of August, 2002

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

Shri Mohal Lal
S/o Shri Behari Singh
R/o House No. 1934
Village Pillantir,
Kotla Mubarkpur,
New Delhi.

-APPLICANTS

(By Advocate: Ms. Anu Mehta)

Versus

1. Secretary,
Department of Culture,
Ministry of Human Resources &
Development, Shastri Bhawan,
New Delhi.
2. Director (Administration)
Archaeological Survey of India,
Janpath, New Delhi.
3. Superintendent, ASI
Delhi Circle,
Safdarjung Tomb,
New Delhi.

-RESPONDENTS

(By Advocate: Shri R.P. Aggarwal)

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (Judl)

The applicant has filed this OA seeking the following reliefs:-

(i) Issue a writ of mandamus or any other writ of the like nature directing the respondents to take steps to regularise the services of the applicant as Beldar.

(ii) Issue time bound directions to the respondents to immediately take action on the letter of the Director (Administration) dated 28.7.95 at the

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earnest.

(iii) Award the cost of the application.

2. The applicant in this OA is challenging the action of the respondents whereby they have refused to grant regular status to him despite constitutional provisions, definite law in this regard and despite the recommendations of the Deputy Director, National Commission for SC/ST and approval letter of Director Administration.

3. It is further submitted that the applicant has been working in the department for nearly 20 years initially as casual labour and since 1993 as temporary staff, yet his services has not been regularised till now on the one pretext or the other and the latest plea taken by the department is that he is overaged by 2 1/2 years whereas respondents have suo motu made relaxation in the Recruitment Rules for the purpose of regularisation numerous times in the past and they have specific provisions made by the Ministry of Personnel, Public Grievances and Pension for regularisation and absorption of long term casual workers even if necessary relaxation need to be made in order to salvage them out of financial hardships and in order to give them a fair opportunity to work in a permanent post. The applicant also pleads in his support an Office Memo dated 8.4.90 on the subject of regularisation of services of casual workers in Group 'D' posts.

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4. It is further submitted that applicant's case has otherwise been approved by the Director (Administration) ASI as per the letter addressed to the concerned Superintendent Archeologist, ASI, New Delhi and despite applicant's fulfilling all the eligibility criteria, respondents have not taken any steps to regularise him.

5. The respondents have taken a plea that the application is barred by time since the regularisation was considered in the year 1994 itself and as the applicant was not regularised so he had a cause of action in 1994 itself so the OA is barred by time.

6. We have heard the learned counsel for the parties and gone through the record of the case.

7. From the perusal of documents annexed with the OA, we find that there is a Office Memo dated 31.8.94 which is Annexure A-1 vide which the applicant was called upon to attend an interview for regular appointment which shows that the applicant was considered for regularisation and it is the case of the applicant himself that he was found overaged. He made an application for relaxation on 22.2.1995. There is another application placed on record by him to claim regularisation and relaxation in age.

8. The department had also issued a letter to the Superintending Archaeologist, Archaeological Survey of India on 28.7.1995 wherein it was informed that in terms of the OM dated 8.4.1991 issued by Department of

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Personnel & Training, SA Delhi Circle is the competent authority to accord relaxations being the appointing authority of Group 'C' and 'D' staff of Delhi Circle so it seems that no action has been taken on that and after 1996 there is no correspondence to this effect. Thus from the documents placed on record it is clear that the applicant has not been regularised and his case had been rejected being overaged and that is why the department had also taken a plea of limitation when the department states that when the applicant's case was considered for regularisation, he was not regularised as he was found to be overaged whereas the OA has been filed in 2001. No rejoinder to this counter-affidavit has been filed.

9. Though in paragraph 3 of the application it is stated that the application is within the period of limitation prescribed but the fact remains that the applicant has not explained as to why when in the selection of 1994 he was not regularised, he kept silent and did not file any OA before the court within time. So in view of these circumstances, I am of the considered opinion that the OA is barred by time.

10. In view of the above, OA is dismissed on the point of limitation. No costs.


(KULDIP SINGH)
MEMBER(JUDL.)

/Rakesh