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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 3464/2001

NEW DELHI THIS 23TH DAY OF AUGUST 2002

HON'BLE SHRI GOVINDAN S. TAMPI. MEMBER (A)

Narendar Pal S.o Sh. Narasing Ji
H No. RZ C-24, Madhu Vihar,
Uttam Nagar, New Delhi.

.....Applicant

(By Sh. U. Srivastava, Advocate)

VERSUS

1. The Secretary,
Min. of Urban Development,
Nirman Bhawan, New Delhi
2. The Director General of Works
A Wing, Nirman Bhawan,
New Delhi
3. The Superintending Engineer,
Delhi Kendriya Parimandal,
CPWD, New Delhi
4. The Executive Engineer,
U. Division, CPWD,
CGO Complex, New Delhi

.....Respondents.

(By Shri D S Mahendru, Advocate)

O R D E R

BY HON'BLE SHRI GOVINDAN S. TAMPI. MEMBER (A)

Applicant in this O.A. challenges the move of the respondents to discontinue his services as well as seeks grant of temporary status and regularisation for him, in accordance with rules and instructions.

2. S. Sh. U Srivastava, and D S Mahendru, learned counsel appeared for the applicant and the respondents respectively.
3. The applicant (Narendar Pal) who was engaged as Casual Labourer (Beldar) on hand receipt basis on 18.5.89, is working as such till the present day and that too without any complaint. CWP No. 253/88, filed by similarly placed Beldar before the Hon'ble Supreme Court, was disposed on 31.10.88, directing that a scheme for regularisation of similar employees be formed and till such time their services may not be terminated and they be paid the minimum of the salary payable to regular

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employees. Thereafter DoPT's Scheme was formulated on 10.9.93, which was extended to Casual Labourers of CPWD on muster roll basis or hand receipt basis, but not those engaged through contractors. Following this the applicant's particulars had also been called by the respondents by their letter dated 16.11.94, for regularisation. Nothing has happened thereafter. In the respondents letter dated 23.3.95, also reference is made to the applicant's name as beldar working since 18.5.89. Still the applicant's had, by their letter dated 10.10.2001 proposed to dispense with the services of a few, including the applicant leading to this OA.

4. Main grounds raised in this OA are that :

- i) the applicant, originally appointed as a casual labourer (beldar) on hand receipt basis since 18.5.89, has been working continuously with the respondents since then;
- ii)m having considered the case of the applicant for temporary status/regularisation, twice earlier the respondent's move to dispense with his services was improper;
- iii) denial of the grant of temporary status and/or regularisation to the applicant was improper especially as;
- iv) the respondents have themselves observed in their communication that dispensing with the services of long standing employees like the applicant would invite troubles;

5. All the above pleas were forcefully reiterated by the learned counsel - Sh. U Srivasthava.

6. Fully rebutting the contention raised by the applicant and reiterating the pleas by the respondents! learned counsel S. D S Mahendru states that the application was an abuse of the process of law. The applicant was a contractor, engaged for supplying the services of Beldar, on certain terms and conditions beyond which the contractor had no right whatever. Applicant who had accepted the work order as Contractor and he has therefore, incapable of being considered for regularisation or grant of temporary status, in terms of 1993 scheme which was exclusively meant for casual labourers which the applicant in fact was not.

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As this relates to the case of a contractor the Tribunal did not have any jurisdiction. The applicant was one of the contractors, who was given a work order which was not renewed as no work was available. CWP No. 253/98 concerned the staff on muster roll, which did not apply to the applicant. One or two writs filed before the Andhra Pradesh High Court - 12659/2000, 14948/2000 and 15122/2000 - for regularisation of contract employees had failed. As the applicant had not been recruited as per procedure but he was only a contractor he cannot get temporary status or regularisation. OA therefore, deserved to be dismissed plead the respondents.

7. Applicant on 9.8.2002 promised to file the copy of a judgement in his/her favour in two days but he had not done it as yet.

8. I have carefully considered the matter. While the applicant claims grant of temporary status and/or regularisation on the ground of his working as Beldar on muster roll basis from 1989, the respondents plead that his case was not covered by the 1993 scheme for regularisation, as he was only a contractor engaged for placement of beldar. The original engagement of the individual's service with the respondents makes it clear that it was a contract and it is specifically provided that "the contractor or his worker shall have no claim of any nature other than the one mentioned above." The applicant has not been able to prove that his case is not one of contract or that he was a Casual Labourer, covered under DoPT's scheme of 10.9.93. That being the case, the applicant's request for consideration of his case for grant of temporary status and / or regularisation, cannot be endorsed. The same has not been acceded to by the respondents, and rightly too, in view of the facts brought out and the law laid down by the decision referred to by the applicant above.

9. In the result I am convinced that no convincing case for Tribunal's interference has been made out by the applicant. OA therefore fails and is accordingly dismissed. No costs.

(Govindan S. Tampi)
Member (A)

Patwal/