

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

A-1267/99
MA-464/2000
with
OA-1263/99
OA-1265/99

(7)

New Delhi this the 5th day of July, 2000.

Hon'ble Dr. A. Vedavalli, Member(J)

OA-1267/99 with MA-464/2000

Siva Ram,
S/o Sh. Jagdev,
C/o Ghanshyam,
G-695, Mangol Puri,
J.J. Colony,
New Delhi-83.

.... Applicant

(through Sh. S.K. Gupta, Advocate)

Versus

1. Union of India through
Secretary,
Ministry of Defence,
South Block,
New Delhi.

2. D.D. G.M.F.,
QMG Branch,
Army Headquarters,
West Block-III,
R.K. Puram, New Delhi.

3. Commandant,
Military Farms School and
Research Centre,
Grass Farm Road,
Meerut Cantt.

.... Respondents

(through Sh. A.K. Bhardwaj, Advocate)

OA-1263/99

Jagmohan,
S/o Sh. Surjit,
C/o Munnavar Khan,
H.No.C-228/4,
Gali No. 10, Near
Belal Masjid,
Choin Bazar, Delhi-53.

.... Applicant

(through Sh. S.K. Gupta, Advocate)

Versus

(A)

VS

1. Union of India through
Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. D.D. G.M.F.,
QMG Branch,
Army Headquarters,
West Block-III,
R.K. Puram, New Delhi.
3. Commandant,
Military Farms School and
Research Centre,
Grass Farm Road,
Meerut Cantt. Respondents

(through Sh. A.K. Bhardwaj, Advocate)

OA-1265/99

Rajender,
S/o Sh. Ram Prasad,
C/o Ram Charakh Chaudhan,
H.No. T-970, Bhil Basti,
Baljit Nagar, West Patel
Nagar, New Delhi-8. Applicant

(through Sh. S.K. Gupta, Advocate)

Versus

1. Union of India through
Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. D.D. G.M.F.,
QMG Branch,
Army Headquarters,
West Block-III,
R.K. Puram, New Delhi.
3. Commandant,
Military Farms School and
Research Centre,
Grass Farm Road,
Meerut Cantt. Respondents

(through Sh. A.K. Bhardwaj, Advocate)

AV

O R D E R

Hon'ble Dr. A. Vedavalli, Member(J)

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The applicant in OA-1267/99 filed an MA No. 464/2000 seeking the clubbing of this O.A. with two other O.As. i.e. OA-1263/99 and OA-1265/99 on the ground that all the three applicants were colleagues and they have filed the above OAs challenging the termination of their services by similar orders passed by the respondents. It is also stated that same grounds and reliefs have been sought by the applicants and the counsel for the parties are also the same.

2. Learned counsel for the respondents Shri A.K. Bhardwaj has no objection for MA-464/2000 being allowed. Accordingly, the aforesaid M.A. is allowed and disposed of. All the three O.As. were heard and are being disposed of by a common order.

3. All the three applicants were working as casual labourers under the respondents for more than 8/9 years. However, their services were terminated by the respondents in April, 1999. The applicants have challenged the said action of the respondents and have impugned the concerned orders of retrenchment in these O.As. (Order dated 12.04.99 Annex.A-1 in OA-1267/99, order dated 12.04.99 Annex. A-1 in OA-1265/99 and the order dated 12.04.99 in OA-1263/99). The reliefs sought by the applicants in these O.As. are:-

"(i) To quash and set aside the letter of discharge dated 12.4.1999 (Annexure A-1);

(ii) To direct the respondents to re-engage the applicant and allow the applicant to work as long as his juniors are working and consider the case of the applicant for grant of temporary status in terms of G.O.I's Scheme dated 01.09.1993.

(iii) To pass such other and further order which this Hon'ble Tribunal may deem fit and proper."

4. Heard the learned counsel for both the parties. Perused the pleadings and all the relevant material and documents placed on record.

5. Learned counsel for the applicants Shri S.K. Gupta submitted that since all the applicants were working for several years under the respondents and have completed more than the requisite 240 days of continuous service years ago they are entitled for conferment of temporary status and subsequent regularisation also. He has further submitted that a casual labour, namely, Suresh S/o Kalwa who is junior to them as per the seniority list (Annexure A-3) has been retained in service whereas the applicants have been disengaged and that the respondents are also planning to engage casual labourers through contractors. He contended that for the above reasons and grounds, the impugned orders deserve to be quashed and set aside as they are illegal and arbitrary. He relied upon an order of this Tribunal dated 26.10.98 in OA-408/99 in the case of Sohan Singh Negi Vs. U.O.I. & Ors. (Annexure A-4) in support of

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his arguments.

6. Learned counsel for the respondents Shri A.K. Bhardwaj in reply submitted that due to reduction of workload and the policy decision taken by the Government of India, Ministry of Defence, the services of the applicants have been retrenched. In this connection, he drew my attention to the relevant departmental letters dated 17.12.99 (Annexure-A), 08.04.99 (Annexure-B) and 15.02.99 (Annexure-C) to the counter. He has submitted that the above action of the respondents in similar cases has been upheld by the High Court of Karnataka in their judgement dated 18.06.99 in Writ Petition No. 968 of 1999 with other Writ Petitions (Sri Shivram Vs. U.O.I. & Ors) (Annexure-G to the counter) and the order of the Chandigarh Bench of this Tribunal dated 23.09.98 in the case of Om Parkash & Ors. Vs. U.O.I. & Ors. (OA No. 810-PB-1998 Annexure H) and another order of the same Bench dated 06.11.98 in the case of Mohinder Singh Vs. U.O.I. & Ors. (OA-933/PB/1998 Annexure I). He contended that the impugned orders are perfectly valid and legal as the same have been passed in strict conformity with the relevant rules and instructions.

7. Re the applicants submission that temporary status was not conferred upon them inspite of their entitlement for the said status, learned counsel for the respondents denied the same and submitted that temporary status was in fact granted to all the three applicants by an Office Order dated 25.10.97 with effect from 01.11.97 (Annexure-A - Additional documents filed

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by respondents) and they were being paid also on CLTs rates from the said date. It was also submitted that the documents showing payment of wages to the applicants on daily labour rate for the month of October 1997 i.e. till they were granted temporary status is at Annexure-B (additional documents) and the documents showing payment of wages on CLTs rates i.e. after conferment of said status is at Annexure-C (additional documents).

8. Re the submission of the applicants regarding arbitrariness, namely, alleged retention of a junior in service, learned counsel for the respondents submitted that the said contention is not correct. Shri Suresh S/o Sh. Kalwa was engaged as a daily wager temporarily as and when required on job basis in the regimental section of the centre (Respondent No.3) and he left the job of his own accord during the year 1997 whereas the services of the applicant were terminated in April 1999 i.e. much after the said junior left the job.

9. Learned counsel for the respondents prayed that for the above reasons, the O.A. may be dismissed with costs as this is absolutely without any merit.

10. Learned counsel for the applicants in reply to the submission of the respondents regarding conferment of temporary status on them stated that the said Office Order dated 25.10.97 supra was never conveyed to the applicants and the wages were also being

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paid at the usual rates and they did not know that the same were being paid to them after conferment of temporary status.

11. The above submission was refuted by the learned counsel for the respondents and he drew my attention to the contents of the reply of the respondents filed on 15.05.2000 with reference to the counter reply filed by the applicants on 05.05.2000. He submitted that the office orders are permanent records in the offices of the respondents and they are informed by a Section Incharge to the labourers as the said orders are in English and applicants were also informed accordingly. Even otherwise the applicants themselves have signed in the wages book from 01.11.97 onwards as token of having received their wages at CLTs rates and at the time of retrenchment also the compensation was paid to them at CLTs rates through cheque.

12. I have given my careful attention to this case. The impugned orders in all the three OAs which were issued in April 1999 are worded similarly and the relevant portion of the said orders is extracted below:-

Shri
S/o
C/o MF School & Centre,
Meerut Cantt.

Through: Incharge Section.

RETRENCHMENT ORDER

1. Due to reduction of work, your casual employment is hereby terminated wef 13 Apr 99. One month salary in lieu of

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notice and compensation @ 15 days salary at current rate for each completed year with 24 days attendance is enclosed herewith vide cheque No. _____ dated 12 Apr 99 for Rs. _____ (Rupees _____ only).

2. You would be considered for re-engagement as per your seniority as and when regular vacancy occurs. You may also take up "job basis" work to the extent available.

(Auth : DDGMF, MD Dte, Army HQ letter No. A/88043/PE/Q/MF-4 (MF S&C) dated 08 Apr 99).

(S.S. Shishodia)
Farm Officer
Offg Comdt

Encl : One Cheque."

13. It is seen that the reason for the termination of the services of the applicants by the respondents is indicated as "reduction of work". One month salary in lieu of notice and compensation at the rates for the periods mentioned therein have also been paid to the applicants by cheque. Moreover, the respondents themselves have stated in the said orders that the applicants will be considered for re-engagement as per their seniority as and when regular vacancy occurs. It was further stated that the applicants may also take up work on "job basis" to the extent available.

14. Re the alleged non-conferment of temporary status on the applicants, it is evident that the said status has already been granted to the applicants w.e.f. 1.11.97 by Office Order dated 25.10.97. The said order no doubt ought to have been

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communicated to the applicants even if it is in English. However, the applicants are not illiterate as by their own admission they have studied upto Middle Standard and were sponsored by the Employment Exchange initially. They were being paid their wages on CLTS rates after they were being granted temporary status w.e.f. 1.11.97 till their services were terminated in April 1999. They have not denied the receipt of payment of their wages as contained in the Wages Book at Annex. 'C' (Addl. document filed by respondents) at CLTS rates. In the above facts and circumstances, the contention of the applicants that they were not conferred or were not aware of the conferment of temporary status cannot be accepted.

15. Re the contention of the applicants that the respondents have terminated their services arbitrarily while retaining a junior, namely, Suresh S/o Kalwa in service, the respondents have denied the same categorically stating that the said junior has already left their service on his own accord during the year 1997 itself i.e. much before the services of the applicants were terminated. The order of this Tribunal dated 26.10.98 in OA No. 408/99 supra also will not help the applicants since the facts and circumstances in the aforesaid O.A. are quite different from those in the present O.A. In view of the above, the aforesaid contention of the applicants is not sustainable.

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16. In the facts and circumstances of this case and in view of the foregoing discussion, I am of the opinion that the applicants have failed to establish the violation of any of their vested legal rights by the respondents on any sustainable or legally tenable grounds and the impugned orders do not warrant any interference by this Tribunal. In the result, the O.As. are dismissed. No costs.

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(Dr. A. Vedavalli)
Member(J)

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