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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1749/99

New Delhi this the 25th day of January, 2000.

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

Shri Chandrapal Sharma,
S/o Late Sh. Laxmi Narayan Sharma,
A8-151, Anarpuri, Ramnagar,
Paharganj, New Delhi-55. Applicant

(through Sh. VSR Krishna, Advocate with Sh.R.K.
Shukla, Advocate)

versus

1. Union of India through
Secretary, Deptt. of Revenue,
M/o Finance, Govt. of India,
North Block, New Delhi.
2. The Commissioner, Central Excise,
C.R. Building, I.P. Estate,
New Delhi.
3. Addl. Commissioner(P&V),
New Customs House, IGI Airport,
New Delhi-37. Respondents

(through Sh. R.R. Bharti, Advocate)

ORDER

Applicant, Chandrapal Sharma, was engaged by the respondents as a casual labourer in October 1997. His services were terminated by the respondents on 30.11.98. Earlier the present applicant alongwith 10 other casual labourers who are stated to be similarly placed filed an O.A. No. 1439/98 before this Tribunal seeking a direction to respondents not to discontinue their services and to grant them salary on regular scale without artificial breaks and to give them temporary status in terms of O.M. dated 10.09.93.

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The said O.A. was disposed of by another Bench of this Tribunal on 05.10.98 (Annexure A-2) in the following terms:-

"8. I have considered the rival contentions carefully. The question whether work is available for the continue retention of the applicants or not is a pure question of fact, which is to be left for determination of the appropriate fact finding authority and it is not for the Tribunal as a writ court to determine as has been held by Hon'ble Supreme Court in D.R. Meena Vs. Rajasthan High Court (AIR 1997 SC 896). Accordingly this O.A. is disposed of holding that in the event respondents find that there is work available with them for the continued retention for the continued retention of the applicants they shall do so, but in the event that they conclude that work is not available to retain any or all the applicants, they cannot be legally compelled to retain them.

9. In this connection Shri Mittal has alleged that respondents have disengaged the applicants w.e.f. 24.09.98 despite the order passed on 7.8.98. Shri Bharti has stated that he had no information regarding this allegation. If any orders of the Tribunal have been violated, it is open to the applicants to agitate the same through appropriate proceedings in accordance with law if so advised.

10. Shri Mittal has also stated that applicants have not been paid their wages since 21.8.98. Respondents are directed to clear all legitimate dues of the applicants forthwith."

2. Later, the present applicant alongwith 10 others went to the Delhi High Court against the said order of the Tribunal in CW-5793/98. The petition was dismissed on 11.11.98



by the Delhi High Court with certain directions (Annexure A-3). The operative para of the said decision is extracted below:-

"The Learned Counsel for the petitioner submits that the petitioners have reached the position where they are entitled to temporary status. This submission on behalf of the Petitioners is fully in consonance with the aforesaid observations of the Tribunal. If there is any problem regarding implementation of the aforesaid direction of the Tribunal, the petitioners may approach the Tribunal. This petition is dismissed."

3. Consequently, 9 applicants out of the 11 who approached the Delhi High Court moved this Tribunal again in O.A.No. 373/99. The said O.A. was disposed of on 21.05.99 by another Bench of this Tribunal (Annexure A-4). Operative para of the same is as follows:-

"Since Annexure A-2 has not been challenged by the respondents, I direct respondent No.2 to consider passing an order of temporary status on the applicants in accordance with the provisions of the Scheme within a period of three weeks from the date of receipt of a copy of this order and remit to the applicants the benefits by way of additional pay and allowance on account of conferment of temporary status. Even so, the respondents may re-verify their claim in accordance with the scheme."

4. The present applicant was not a party to OA-373/99. He has stated in the O.A. that due to some financial hardship he could not implead himself as a party to the said O.A. and has filed



the present O.A. seeking the reliefs as mentioned in Para-8 of the application. However, Shri VSR Krishna, learned counsel for the applicant during the course of hearing submitted that he is pressing only the relief for conferment of temporary status on the applicant by the respondents with consequential benefits as have been awarded in Para-7 of the order of this Tribunal in OA-373/99.

5. Heard the learned counsel for both the parties and perused the papers and material placed on record.

6. There is no dispute that the applicant was disengaged by the respondents on 30.11.98 or that he is not similarly placed as the 9 applicants who have filed OA-373/99 before this Tribunal. In the above facts and circumstances of the present case and on a consideration of the matter, the O.A. is disposed of with the direction to the respondents to consider re-engagement of the applicant as casual labourer and also conferment of temporary status on him in the light of the directions given in the aforesaid orders and the relevant provisions of the concerned Scheme mentioned therein. No costs.

A. Vedavalli
25/11/2000

(Dr. A. Vedavalli)
Member(J)

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