

13

Central Administrative Tribunal
Principal Bench

O.A. 2310/99

New Delhi this the 6th day of December, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Vikram Singh Negi,
R/o GB 92, Pul Praladpur,
Badarpur, New Delhi. ... Applicant.

(By Advocate Shri D.R. Gupta)

Versus

The Director,
Electronics Regional Test
Laboratory,
(Department of Electronics,
(North) Okhla Industrial Area,
New Delhi - 110 020. ... Respondents.

(By Advocate Shri K.C.D. Gangwani, Sr. Counsel)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the action of the respondents in dispensing with his services by a verbal order dated 27.8.1999, with ulterior motive to replace him by a fresh casual labourer without any notice or payment of salary in lieu of notice. According to him, he has completed two years continuous service with the respondents as a casual labourer from 2.4.1997 to 27.8.1999. He has, therefore, prayed that a direction may be given to the respondents to reinstate him in service after quashing the termination order dated 27.8.1999 with all consequential benefits. He has also prayed for grant of Temporary Status and Regularisation on completion of 206 days of service in terms of the DOP&T Scheme dated 10.9.1993 under the title "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993.

12

16

2. Shri D.R. Gupta, learned counsel has contended that the Union of India is not ^a necessary party as the applicant had been appointed by the respondents impleaded in this case, that is, The Director, Electronics Regional Test Laboratory which is a part of the Department of Electronics. He further submits that the applicant is claiming relief in terms of the DOP&T Scheme dated 10.9.1993. This contention of Shri D.R. Gupta, learned counsel cannot be accepted because even the Scheme he relies upon has been framed through the Secretary, DOP&T. In the facts and circumstances of the case, the Union of India through the concerned Department is ^a necessary party which has not been impleaded in this case.

3. I have perused the reply filed by the respondents and heard Shri K.C.D. Gangwani, learned Sr. counsel. He has submitted that the application in the present form is not maintainable as it suffers from non-joinder of necessary party. I agree with the learned Sr. counsel on this ground.

4. Apart from the above preliminary objection, the respondents have also stated that the applicant was not appointed through the Employment Exchange, although they have not categorically denied that he was working in the aforesaid period though intermittently. The fact that the applicant has not been appointed through the Employment Exchange, although he has admittedly been appointed and worked with the respondents cannot be held against the applicant in the light of the judgement of

12

the Hon'ble Supreme Court in The Excise Supdt. Malkapatnam, Krishna District, Andhra Pradesh Vs. K.B.N. Visweshwara Rao & Ors. (JT 1996(9) SC 638). Shri K.C.D. Gangwani, learned Senior Counsel has, on the other hand, ~~has~~ submitted that the grant of temporary status and regularisation under the Scheme can be done only in terms of the Scheme on which the applicant also relies upon. According to him, under the Scheme these benefits can be given to the applicant only if he has been sponsored through the Employment Exchange. However, having regard to the judgement of the Hon'ble Supreme Court in Malkapatnam's case (supra), since the respondents themselves have not denied that the applicant has been appointed as a casual labourer, the fact that he had not been sponsored through the Employment Exchange cannot be held against the applicant. I agree with the contention of the learned counsel for the respondents that the O.A. is not maintainable as it suffers from ^{the} legal infirmity ~~and~~ non-joinder of parties.

5. In view of the above facts and circumstances of the case, O.A. is dismissed as non-maintainable for non-joinder of parties. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

"SRD"