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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.516 of 1999

New Delhi, this the 3rd day of January, 2000

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

Praveen Kumar Verma
s/o Shri Shyam Lal Verma
R/o 1764, Koocha Lattu Saha
Dariba Kalan,
Delhi-110006

-APPLICANT

(By Advocate: Mrs.Rani Chhabra)

Versus

1 Union of India
through its Secretary,
Ministry of Finance,
Department of Revenue
Central Board of Excise and Customs,
Delhi

2. Commissioner
Central Excise & Customs
Commissionerate, Meerut

3. Deputy Commissioner(P&V)
Central Excise North U.P.
Meerut

4. Administrative Officer(Hdgrs)
Central Excise
Commissionerate, Meerut

-RESPONDENTS

(By Advocate: Shri V.S.R.Krishna)

O R D E R

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

The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act whereby he has challenged inaction on the part of the respondents for not conferring temporary status upon him in accordance with the Scheme framed by the DOPT though it is alleged that he fulfils all the conditions specified for conferment of temporary status. It is also stated that the respondents have illegally disengaged the applicant vide an oral order without notice just to deny him the benefit of the Scheme. It is further alleged that after

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disengaging the applicant, the respondents have been engaging fresh persons completely ignoring the preferential claim of the applicant to be re-engaged.

2. The case of the applicant is that he was engaged as casual labourer in June, 1996 but with some ulterior motive, the respondents started paying him in the name of Amrish Kumar Verma from December, 1996. It is further stated that the applicant had been continuously working since June, 1996 and had completed more than 240 days of service in a year. So as per the Scheme of DOPT and directions of the Hon'ble Supreme Court, he is entitled to be conferred upon temporary status. It is also stated that the work is of perennial nature and the respondents cannot disengage the applicant. He has, therefore, prayed that the respondents be directed to re-instate the applicant with full back wages and to confer temporary status upon him with effect from the date he became eligible for the same.

3. The respondents have contested the petition by filing a reply. They have taken three objections in their counter. Firstly they have stated that the applicant has no cause of action for filing the present O.A. Secondly, they have submitted that as per para 2(1) of the DOPT letter dated 12.7.94, temporary status cannot be conferred on those who have not been engaged through Employment Exchanges and lastly, they have stated that the application is belated and is hit by limitation as admittedly, the applicant was last engaged in 1996 while this O.A. has been filed in 1999. Besides that, the

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application is premature as the applicant has failed to make any representation to the respondents. However, it is admitted that the applicant was engaged by the respondents on daily wage basis to do work of seasonal and intermittent nature from time to time. It is stated that he was engaged only for 138 days in the year 1996 and after that, he was not engaged. It is denied that the applicant had ever been paid in the name of Amrish Kumar Verma since he had not been engaged after November, 1996. It is further stated that the applicant has not worked for 240 days and, therefore, he is not entitled for the benefit of the Scheme for conferment of temporary status.

4. I have heard the learned counsel for the parties and gone through the records.

5. It is an admitted fact that during the year 1996, the applicant was engaged for 138 days. However, there is a dispute regarding the further engagement of the applicant for another period of 138 days because the applicant has alleged that he had been paid in the name of Amrish Kumar Verma whereas the respondents have stated in their reply that the applicant had never been paid any amount in the name of Amrish Kumar Verma and nor any person of this name had been engaged by them. So there is a dispute regarding the second period of work of 138 days. No record has been produced nor has been called for by the applicant to prove that he had ever worked beyond the first spell of 138 days. No reason has been given by the applicant as to why he had accepted the payment in the name of Amrish Kumar Verma. There is

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nothing on record which may show that it was the applicant who had worked for another period of 138 days from December, 1996 onwards and that he had been paid in the name of Amrish Kumar Verma.

6. In the circumstances, it is quite clear that the applicant has failed to prove that he had worked for 240 days and/or 205 days, in case the office was of five days week. In any case, the applicant had merely worked for 138 days and he does not qualify for conferment of temporary status. It is also not proved as to what was the nature of work which was being performed by the applicant, whether it was a seasonal work or it was a work of perennial nature.

7. In view of the above discussion, I am of the considered opinion that the applicant has failed to make his case for grant of temporary status. The application has no merit and it is accordingly dismissed. No costs.


(KULDIP SINGH)
MEMBER (JUDL)

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