

29

Central Administrative Tribunal
Principal Bench

RA 235/2000
in
OA 603/1999

New Delhi this the 17 th day of August, 2000

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

1. Secretary,
Govt. of India, Ministry of
Development Board, B Wing,
4th Floor, SENA-BHAWAN, New Delhi.
2. Under Secretary,
Govt. of India, Ministry of Surface
Transport, Border Roads,
Development Board, B Wing,
4th Floor, SENA-BHAWAN, New Delhi. ...Applicants.

Versus

Shri Mohinder Kumar,
S/o Shri Jagdish Prakash,
R/o 85/272, Puncakhian Road,
New Delhi-1. ...Respondent.

O R D E R (By Circulation)

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

I have perused the Review Application No. 235/2000 filed by the respondents in OA 603/99 praying for review of the Tribunal's order dated 24.3.2000.

2. It is seen from the Review Application that the respondents had filed CW No.2768/2000 in the Hon'ble Delhi High Court which was disposed of by order dated 22.5.2000. In this order, the Court has observed that they did not find any ground to interfere in the finding of fact, as recorded by the Tribunal and accordingly the petition was dismissed in limine. However, it was left open to the petitioners to approach the Tribunal for correcting any factual error. Consequently, the present Review Application has been filed on the grounds mentioned in paragraph 9. One of the grounds taken is that the Office Order dated 26.9.1997 which came

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into effect from 1.5.1997 was not applicable to casual labourers who were in continuous employment before 1.9.1993. They have stated that the respondent (original applicant) was employed as a casual labourer in BRDB Secretariat after 1.9.1993, that is on 10.5.1995 and hence the Scheme was not applicable to him. They have also stated that their action in granting ~~of~~ ¹⁸ the 'Temporary Status' to the respondent was wrong and illegal and it was cancelled by order dated 11.8.1998 which has not been challenged by him. They have also submitted that the Tribunal had erred in failing to appreciate the fact that the 'Temporary Status' had been cancelled by the aforesaid order and holding that the casual labourer, therefore, had acquired certain rights.

3. The grounds taken in the Review Application do not fall under any of the grounds, as provided under Order 47 Rule 1 CPC read with Section 22(3)(f) of the Administrative Tribunals Act, 1985. The Tribunal in a catena of judgements (see for example Smt. Tara Vs. Union of India & Anr. (OA 1688/99) has, following the earlier decision of the Delhi High Court in CW 963/98, held that the DOP&T Scheme dated 10.9.1993 was "an on going Scheme and not a one time concession". This principle has been followed in the order dated 24.3.2000. In this view of the matter, the contention of the applicants in the RA that because the original applicant was employed as a casual labourer only after 1.9.1993 and he was not covered under the Scheme and hence, the Tribunal's order should be reviewed, is not tenable and is accordingly rejected. Therefore, the fact that the cancellation order has not been challenged by the original applicant in OA 603/99 will not come in his way.

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Apart from this, the respondents have also stated that the Tribunal has not appreciated the facts correctly which again is not a ground for allowing the review application. They have also stated that the Tribunal has failed to appreciate the fact that no dues are payable to the applicant as the same have already been paid. In this connection, it is relevant to note that in the order dated 24.3.2000, what has been stated is that if any dues which have not been paid for his services, are due, to be paid to him, they may be paid immediately and not otherwise.

4. In the result, for the reasons given above, I find no ground to justify allowing the Review Application. RA 235/2000 is accordingly rejected.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

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