

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 2196/98

(X)

New Delhi this the 23rd day of February, 2000

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

1. Vinod Kumar Sharma
S/O Sh. Mohan Lal Sharma,
R/O Shekhpur Mam,
P.O. Kakor,
Distt-Buland Shahar(UP)

2. Babu Lal S/O Sh. Shiv Lal
R/O Shekhpur Mam, P.O. Kakor,
Distt-Bulandshahar(UP)

(Both the applicants are working with
the office of R-3)

.. Applicants

(By Advocate Sh. U. Srivastava)

Versus

Union of India through

1. The Director General,
Indian Archaeological Department
Janpat, New Delhi.

2. Director,
Indian Archaeological Survey
Department 29, New Cantt Road,
Dehradun(UP)

3. The Assistant Superintendent
Archaeological Survey of India,
Delhi Zone, Red Fort, Delhi.

.. Respondents

(By Advocate Sh. D. S. Mehendru)

O R D E R (ORAL)

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

The applicants, two in number, have challenged the action of the respondents in terminating their services as casual labourers. According to them the same is illegal and contrary to the Recruitment Rules and instructions.

2. Shri U. Srivastava, learned counsel for the applicants has submitted that applicant 1 has worked as casual labourer with Respondent 3 from 22.2.96 to 26.10.98 and applicant 2 from December, 1993 to 26.10.98. He has further submitted that both these applicants were employed as casual labourers by Respondent 3 i.e. The Assistant Superintendent, Archaeological

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Survey of India, Delhi Zone, Red Fort, Delhi, through the Employment Exchange. A number of reliefs have been claimed in this QA which has been filed on 6.11.1998, as set out in Paragraph 8 of the OA. The Tribunal has also passed an ad interim order dated 12.11.1998 to the effect that the respondents should also consider the case of the applicants in the event they are considering to engage casual labourers, in accordance with rules and instructions on the subject. (8)

3. Learned counsel for the applicant has vehemently submitted that there was no reason for the respondents to terminate the services of the applicants. According to him the applicants had submitted a representation to them for grant of 'Temporary Status' and other benefits as provided in the relevant Scheme prepared by the Govt. which is applicable to the Department, and the same was torn to bits in the presence of the applicants by the concerned official. At this stage, Shri U.Srivastava, learned counsel interrupts and submits that whatever he has mentioned during the hearing in open Court should not be recorded as he has not stated so in writing. I am unable to agree with this contention of the learned counsel because the statements made at the Bar have to be given due weightage on the presumption that they are correct and made in full knowledge of the Law. He has further submitted that when the first representation given by the applicants was torn by the concerned officer of R-3, they were forced to send another representation, copy placed at Ann.A.1 dated 20.10.1998 by speed post, receipt of which is also annexed at page 10 of the paper book. Learned counsel for the applicant has also made further submissions on the merits of the case, which are not being referred to at this stage in view of the order passed below.

4. Shri D.S. Mahendru, learned counsel for the respondents has raised a preliminary objections as set out in the reply affidavit. He has also brought to my notice that the applicants

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have not approached the Tribunal with clean hands and thus they are not entitled for any relief. In support of this argument, learned counsel has referred to pages 9 and 10 of the paper book. He has pointed out that at page 10, the receipt has been enclosed by the applicants showing transmission of certain documents from the Lodi Road HPO by speed post addressed to " the DR of Science City, Dehradun 248". He has also submitted that in the last line the amount of Rs.12/Gms.6 is legible but there is apparently overwriting on the date and again the time is clear which is 11.30. Learned counsel has submitted that the respondents have got this receipt annexed by the applicants checked from the Lodi Road Post Office and this receipt does not pertain to this application at all as it was sent in December, 1998. Sh. U. Srivastava, learned counsel, had then submitted that the receipt annexed at page 10 of the paper book may be an incorrect one as the applicants had given him a number of documents and other representations which he had also not filed. However, Shri Mahendru, learned counsel, submits that the submissions made by Shri Srivastava, learned counsel cannot, therefore, be accepted in the light of the said discrepancies and the applicants have obviously tried to mislead the Court.

5. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. As mentioned above, learned counsel for the applicants had, presumably on instructions from the applicants, very vehemently submitted at the Bar during the hearing that the action of the respondents is totally unreasonable because when they approached the concerned officer for their legitimate dues, like granting them temporary status and other benefits as provided under the relevant Scheme, their representation was torn by the concerned officer right in their presence, who had also refused to hear them. Further, he had submitted that this necessitated the applicants

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sending the same representation on 20.10.98 to R-2 i.e. Director, Indian Archaeological Survey Department, at Dehradun(UP). Even if this is so, the other facts are not at all adequately explained. In the circumstances, the contention of the learned counsel for the applicants, that the officer in the office of R-3 had torn the representation, thereby casting aspersions on him is also unwarranted and unjustifiable. The applicants could have clearly stated these facts if they had so chosen in writing which again they have failed to do but were made orally by their counsel. Taking into account the totality of the facts and circumstances of the case, I find force in the submissions made by the learned counsel for the respondents that either the applicants have not told the correct facts or have disclosed them in such a manner so as try and mislead the Tribunal, which cannot be accepted in Court of Law.

7. In the above facts and circumstances of the case, as the applicants have not come to the Tribunal with clean hands, the OA fails on this ground alone and is dismissed. No order as to costs.

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

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