

O.A.No.423/98

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 15th day of April, 1998

1. Sunil Kumar, s/o Sh. Puran Singh
2. Manoj Kumar, s/o Sh. Mahabir Parshad
3. Ajab Singh, s/o Sh. Rattan Singh
4. Sat Pal, s/o Sh. Ved Singh

... Applicants

All are working as casual labour in the office of respondent No.2 and their particulars including addresses are stated in Annexure A/1.

(By Shri A.K.Trivedi, Advocate)

Vs.

1. Union of India through
The Secretary
Ministry of Human Resources & Development
New Delhi.
2. The Director
National Musium Institute of History of Art
Conservation & Musiology
National Musium Campus
Janpath
New Delhi - 1.

... Respondents

(By Mrs. Meera Chhibber, Advocate)

O R D E R

The applicants, four in number, were engaged as casual labour in the office of Respondent No.2 in the month of September, 1997. They allege that Respondent No.2 proposes to replace them by fresh selection from the open market as they have been told to get their names responspored from the Employment Exchange, if they wish to be considered for further retention. The case of the applicants in short is that as per various judgments of the Supreme Court particularly State of Haryana vs. Piara Singh & Others, an ad hoc employee should not be replaced by another fresh ad hoc employee. Therefore,

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the applicants claim that respondents be directed to retain them in the service in preference to their juniors with lesser number of days in service and outsiders.

2. The respondents have filed a short reply submitting that the National Museum Institute of History of Art Conservation & Musiology, Respondent No.2 is a society registered under the Societies Registration Act XXI of 1860. As no notification had been issued by the Central Government to bring the said Society within the purview of the Administration Tribunals Act, 1985, as envisaged by Section 14 (2) thereof, the present OA is not maintainable.

3. I have heard the counsel. The learned counsel for the applicant has submitted that the Tribunal has jurisdiction in terms of its decision in OA No.493/97 dated 11.4.1997 wherein a Division Bench held that Section 14(2) being a transitional provision and as 12 years have passed after the Parliament enacted the law, failure to notify would not deprive the Tribunal of its jurisdiction otherwise conferred by the Statute. He submitted that this decision was also followed in Smt. Lilawati Vs. Govt. of N.C.T. of Delhi and Others (OA No.2324/96, Principal Bench), 1998(1) ATJ 258, decided on 4.11.1997. On the other hand, the learned counsel for the respondents cited the judgment of a Division Bench of this Tribunal in OA No.1948/97, decided on 19.8.1997, Usha Sharma Vs. Union of India & Others, in which case, for want of necessary notification under Section 14(2) of the A.T. Act, 1985, it was concluded that the Tribunal had no jurisdiction in the matter involving Kendriya Vidyalaya, Sanghsthan. It was also pointed out that in

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view of the conflicting judgments of the Division Benches, the matter has been placed before the Full Bench for resolving the difference of opinion.

4. In view of the fact that the decision of this Tribunal in OA No.1948/97 is later than that of OA No.493/97, I feel myself bound to follow the latest decision. Accordingly, I hold that as the requisite notification under Section 14(2) of the Administrative Tribunals Act, 1985 is not available in respect of Respondent No.2, the present OA is not maintainable. It is however made clear that if the reference made to the full bench is decided to accord that the decision in OA No.493/97, the applicants in the present case would be free to agitate the matter afresh.

5. In view of the above discussion, the present OA is dismissed. There shall be no order as to costs.

Rao
(R.K. Ahooja)
Member (A)

/rao/