

Central Administrative Tribunal
Principal Bench, New Delhi

O.A.2041/96

(6)

New Delhi this the 14th day of March, 1997.

Hon'ble Dr Jose P. Verghese, Vice Chairman (J)
Hon'ble Shri S.P. Biswas, Member (A)

1. Akhil Kumar
S/o Shri Raisa Chander,
Under Asstt. Collector,
MCD-IV, Delhi-110092
2. Bausidhar Pradhan,
S/o Shri Balram Pradhan
MOD-III
3. Shri Raghubir Singh,
S/o Shri Chattar Singh,
Under Central Excise, MOD-II.
4. Naresh Chander,
S/o Shri Mahavir Prashad,
Under Assistant Collector,
Central Excise, Gurgaon.
5. Rama Shankar,
S/o Shri Ram Harak,
Central Excise, Gurgaon.
6. Ram Harak,
S/o Bachu,
Central Excise, Rohtak.
7. Mrs Ram Wati,
C/o Asstt. Commissioner,
Faridabad.
8. Mrs Raj Kaur,
C/o Asstt. Commissioner,
Faridabad.
9. Shri Akshay Kumar,
C/o Asstt. Commissioner,
MoD -IV, Delhi.
10. Balraj,
C/o Asstt. Commissioner,
Faridabad.
11. Ravi Kumar,
S/o Shri P. Guruppa,
Central Excise,
Headquarters, New Delhi.
12. Mohinder Singh,
S/o Shri Hira Lal,
Under Asstt. Commissioner,
Central Excise, Gurgaon.Applicants
(By Advocate : Dr Surat Singh with Shri
Mahinder Singh)

VERSUS

(7)

1. The Secretary,
Ministry of Finance,
Central Board of Excise & Customs,
North Block, New Delhi.
2. The Commissioner of Central Excise,
C.R. Building, I.P. Estate,
New Delhi.
3. The Addl Commissioner (P&B)
Central Excise, C.R. Building,
New Delhi. Respondents

(By Advocate : Shri R.R. Bharti)

JUDGEMENT

(By Hon'ble Dr Jose P. Verghese, Vice Chairman (J))

The petitioners are casual labourers who were granted temporary status w.e.f 8.12.1993.

Vide Letter dated 16.9.95 of Addl Commissioner, Central Excise & Customs by an Order dt 11.9.1995 the respondents withdrew the said grant of temporary status with immediate effect. The petitioners challenged this Order in O.A.1790/95.

A Division Bench of this Tribunal allowed the said O.A. 1790/95 as the withdrawal order of temporary status has been done unilaterally without any notice to the petitioners and the said withdrawal order was passed on the ground that the applicants were not sponsored through Employment Exchange. This according to the respondents was a necessary requirement, before temporary status can be conferred upon them. In pursuance to the said earlier order of this Tribunal, the respondents issued Show Cause notice to the petitioners requiring them to explain as to why temporary status given to them be not withdrawn in view of the fact that their

(3)

names were not sponsored through the employment exchange. The petitioners replied the show cause notice and they were also heard in person. The respondents re-examined the case of the petitioners regarding withdrawal of the temporary status in the light of the O.M. dated 12.7.1994. After hearing the parties, the then Additional Commissioner (P&V), on 16th September, 1996 sustained order of withdrawal of temporary status granted to them by previous Order dated 11.9.1995 and maintained that the withdrawal of the temporary status on the ground of not sponsoring by the Employment Exchange was correct, and again by the said order the temporary status granted to the petitioners were withdrawn with immediate effect.

2. The petitioners approached this Tribunal aggrieved by the order dated 16.9.96 stating that the order of the respondents cannot stand in view of the reasoned decision of the Hon'ble Supreme Court in - Excise Superintendent Malkapatnam, Krishna District, Andhra Pradesh Vs K.B.N. Visweshwara Rao. Their Lordships, in the said case stated that sponsorship through Employment Exchange may not be necessary in all the cases. Para 4 of the said judgement is reproduced here below :

" 4. Having regard to the respective contentions, we are of the view that contention of the respondents is more acceptable which would be consistent with the

(9)

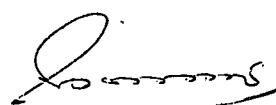
principles of fair play, justice and equal opportunity. It is common knowledge that many a candidate are unable to have the names sponsored, though their names are either registered or are waiting to be registered in the employment exchange, with the result that the choice of selection is restricted to only such of the candidates whose names come to be sponsored by the employment exchange. Under these circumstances, many a deserving candidates are deprived of the right to be considered for appointment to a post under the State. Better view appears to be that it should be mandatory for the requisitioning authority/ establishment to intimate the employment exchange, and employment exchange should sponsor the names of the candidates to the requisitioning. Departments, for selection strictly according to seniority and reservation as per requisition. In addition, the appropriate Department or undertaking or establishment, should call for the names by publication in the newspapers having wide circulation and also display on their office notice boards or announce on radio, television and employment new bulletins; and then consider the cases of all the candidates who have applied. If this procedure is adopted fair play would be subserved. The equality of opportunity in the matter of employment would be available to all eligible candidates."

3. In view of the above findings we are of the considered opinion that sponsorship of the employment exchange in the present case is not necessary, and in result the impugned order dated 16.9.96 is quashed and the respondents shall consider the petitioners as casual labourers with temporary status as granted to them by the

(5)

10

respondents by their order dated 8.12.93. The petitioners shall get all the consequential benefits, as if no order of withdrawal of temporary status has been passed. There is no order as to costs.



(S.P. Biswas)
Member (A)



(Dr. Jose P. Verghese)
Vice Chairman (J)

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