

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Review Applications Nos. 106 & 142 of 1997

New Delhi, this the 30th day of June, 1997

Review Application No.106 of 1997

(In O.A.No.1590/96 decided on 12.3.1997)

Shri K.Balakrishnan, S/o late Shri K.Kochuraman,
Ex.Head Clerk, Chukha Hydel Project, C/o Shri K.
Sivadasan, N.W.D.A., 18-20, Community Centre,
Saket, New Delhi - 110 017

-Applicant

Versus

1. The Secretary to the Govt.of India,Ministry
of Water Resources, Shram Shakti Bhawan,
Rafi Marg, New Delhi - 110 001
2. The Chairman, Central Water Commission, Sewa
Bhawan, R.K.Puram, New Delhi - 110 066

-Respondents

Review Application No.142 of 1997

(In O.A.No.512/92 decided on 12.3.97)

Shri R.K.Pillai, Daftry, O/o Managing Director
Chukha Hydel Power Corporation, Tsimalkha, Bhutan

-Applicant

Versus

1. The Union of India through the Secretary to
the Government Ministry of Water Resources,
Shram Shakti Bhawan, New Delhi
2. The Central Water Commission through its
Chairman, Sewa Bhawan, R.K.Puram,
New Delhi-110 066

-Respondents

O R D E R (By circulation)

In these applications the applicants seek review of
the common order passed on 12.3.1997, on more or less common
set of facts and grounds. Accordingly, these review applications
are being disposed of by this common order. The grounds for
review are as under-

(i) The applicants worked for a span of about 18 years and
have become over-aged for employment. Their livelihood is
threatened.

(ii) The applicants relied on the decision of this Tribunal
in the case of Shri M.Joykutty Vs. Union of India & others,
O.A.No.2213 of 1990 decided on 24.7.1991. According to the
applicants the case of Joykutty (supra) should have been

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followed because the facts and contentions are similar in these cases.

(iii) The decision of the Hon'ble Supreme Court in the case of Charan Singh & Others Vs. State of Punjab, AIR 1975 SC 246 was inapplicable to the dispute in issue.

(iv) The applicants were also appointed against the regular establishment and not in the workcharged establishment and as such a factual error has been crept in para 5 of the judgment dated 12.3.1997 in which the Tribunal had observed that "Joy Kutty was appointed as LDC in the regular establishment, whereas the applicants were appointed in the work-charged establishment ."

2. We have carefully considered the submissions in the review applications. The counter affidavits filed in the Original cases clearly state that the applicants were work-charged employees of Chukha Hydel Project recruited locally and governed by the Bhutan Civil Service Rules. No options were required to be obtained from them for remaining in the Chukha Hydel Project or reverting back to Central Water Commission. We may reproduce an extract of the counter affidavit filed by the respondents in O.A.750/92 (which was also decided along with OAs 1590/96 & 512/92) as follows-

"The Chukha Project Authority was to decide about the terms and conditions to be offered to the staff within a period of three months. The work charged staff have always been recruited for specific work in a project, their services are likely to be retrenched on completion of the project. During the subsequent correspondence, the Administrative Officer, Chukha Project, Bhutan had agreed that the work-charged employees appointed against specific works have no claim for permanent absorption in the Central Water Commission. Consequently, the applicants have no case for seeking absorption in Central Water Commission after reguicating (sic) in their continuance in the Chukha Hydel Project Authority for more than 16 years".

In the case of a work-charged staff there is no such thing as parent cadre and there was no question of their giving

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any option for repatriation because they were locally recruited for project only. The option was given only to officers and staff who were on deputation and who do not volunteer to work at Chukha Hydel Project. In response to letter No.GM/7(20)/80-Estt,I dated 22.1.1985 of the General Manager, Chukha Hydel Project, the Administrative Officer had agreed with the Central Water Commission that work-charged employees appointed against specific work in the project have no claim for permanent absorption in the Central Water Commission. The applicants were relieved by the Chukha Project Authority on completion of project works. It was stated by the respondents that as the applicants had always been governed by the Bhutan Civil Service Rules and as they never were ~~the~~ part of any parent cadre of Central Water Commission, they have no claim for being appointed in the Commission. The respondents have specifically stated in their counter affidavits that Shri M.Joykutty belonged to regular establishment whereas the applicants belonged to work-charged establishment. These submissions in the counter affidavits have not been rebutted and, therefore, we rightly accepted the repeated assertions of the respondents to the effect that the applicants were appointed on work-charged establishment. The respondents had further stated that persons on the regular establishment were included in a common seniority list and in a common Central Water Commission cadre whereas the work-charged staff recruited for a project locally did not form part of the common cadre for seniority. The applicants were specifically told at the time of their appointment that their appointment would be for the duration of the project and they would have no claim for absorption in the Central Water Commission. In

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the rejoinders filed by the applicants this aspect was never contradicted. Therefore, the present review applications are patently baseless in pointing out an error in the judgment.

3. The principle is well established that a temporary employee however long he might have worked, who is locally recruited and whose services are terminable at will and who is a workcharged employee cannot claim rights to another permanent post and cannot claim absorption as a matter of right. We have rightly relied on the decision of the Hon'ble Supreme Court in the case of Charan Singh(supra). There is no basis for claiming that the Joykutty's case (supra) should have been followed. After perusing and examining the averments made in the review applications we are convinced that there is no error apparent on the face of record either on facts or in law. These review applications seek to reargue the matter afresh which is not permissible. The review applications are accordingly dismissed.

(K.M. Agarwal)
Chairman

[Signature] (N. Sahu)
Member (A)

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