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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.NO.1329/94

New Delhi: April 28, 1995.

HON'BLE MR. JUSTICE B.C.SAKSENA, VICE CHAIRMAN (J)

HON'BLE MR. S.R.ADIGE, MEMBER (A)

Shri Het Ram,
s/o Shri Manohar Lal,
r/o Vill. Baghrola,
P.O.Palam,
New Delhi - 110045

.....Applicant.

By Advocate Shri S.S.Tewari.

Versus

1. Union of India, through
Secretary,
Ministry of Defence,
South Block,
New Delhi.

2. Commander Works Engineer (A.F),
Palam,
Delhi Cantt-10.

3. Chief Engineer, Delhi Zone,
Delhi Cantt-10

.....Respondents.

By Advocate Mrs. Meera Chhibber.

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member (A).

In this application, Shri Het Ram has prayed that he be given the benefits of judgments in O.A.No.1852/92 Hem Chander Vs. UOI and O.A. No.968/92 Anil Kumar Sharma Vs. UOI and thereby he be given appointment as Mazdoor.

2. Applicant's case is that he was recruited as a Mazdoor on Muster Roll basis w.e.f. 19.11.84 through Employment Exchange and was employed in different spells in 1985, 1986 and the last upto 31.1.87. He claims that earlier he approached the

the Tribunal with a plea that he had completed more than 240 days but had not been regularised, upon which the respondents in their reply had stated that the applicant had not worked for 240 days. The Tribunal had directed the respondents to reverify the applicant's services and pursuant to those orders, the respondents had reverified the applicant's services which came to 237 days exclusive of Sundays and other holidays. The applicants contends that in the present O.A. he is approaching the Tribunal, not on the ground of having put in 240 days service, but on the ground that he has a right to be regularised along with fresh outside candidates, but he has been denied this right. He contends that pursuant to the Tribunal's judgments, Anil Kumar and Hem Chander, who had rendered barely 150 days service had been regularised as Mazdoors along with fresh candidates, but he has been denied the same, and has, therefore, been discriminated against. He has also alleged that Shri Sudesh Kumar and Kehari Singh were appointed on regular basis although they had not put in 240 days service.

3. In their reply, the respondents deny that the applicant has been discriminated against. They state that he is not entitled to be regularised as he was not in service on the relevant date, which fact has not been denied by the applicant in his rejoinder, and he has also not put in 240 days service in the last one year or preceding years. Regarding the regular appointments of Anil Kumar and Hem Chander, they state that this was done pursuant to the Tribunal's orders to avoid contempt of Court, and does not constitute a precedent. In another similar case of Shri Ram

Bilas bearing O.A.No.607/93 they have filed an SLP in the Hon'ble Supreme Court and the Tribunal's order has been stayed. As regards Shri Sydesh Kumar and Kehari Singh, it is stated that these two persons have been appointed as Safaiwalas and not Mazdoors.

4. We have considered the matter carefully. The applicant upon his own admission was last engaged on muster-roll on 31.1.87. In other words, since then, until the date of filing the O.A. (9.6.94), he was not even a casual worker. Normally at the level of Mazdoor, a person enters the Organisation as a Casual Worker and after putting in the required length of service, is given temporary status and is thereafter regularised against permanent/vacancy depending upon his seniority amongst the category of temporary employees after being put, ^{through} in such test, if any, as may be prescribed. In the present case, the applicant does not appear to be a casual worker at the time he filed the O.A. Furthermore, he had not completed 240 days service in the last one year or in any two preceding years and was not in service on the relevant date, which facts have not been denied by the applicant in his rejoinder. The judgments in Hem Chander's and Anil Kumar's cases only directed the respondents to consider their cases on merits in accordance with law. As the applicant does not fulfil the requisite conditions for regularisation, those judgments do not give him an enforceable right to be regularised. A plea that a person has been discriminated against, can be successfully raised only where the relief prayed for by the person

concerned is itself admissible to him under rules, but in the present case that is not so. Suresh Kumar's and Kehari Singh's cases also do not help the applicant as they were appointed as Safaiwalas and not Mazdoors.

5. We, therefore, see no reason to interfere in this matter. This application fails and is dismissed. No costs.

Adige
(S.R. ADIGE)

MEMBER (A)

B.C.Sakse
(B.C.SAKSENA)

VICE CHAIRMAN