

14

Central Administrative Tribunal,
Principal Bench

R.A. No.40/2001 IN
O.A. No.878/2000

New Delhi this the 23rd day of August, 2001

Hon'ble Mr. M. P. Singh, Member (A)
Hon'ble Mr. Shanker Raju, Member (J)

ISHWARI DUTT MALKANI

- Applicant
(Respondent herein)

(By Advocate : Mrs. Rani Chhabra)

Versus

UNION OF INDIA & OTHERS

- Respondents
(Review Petitioners)

(By Advocate: Shri K.R. Sachdeva)

O R D E R (ORAL)

Hon'ble Shri Shanker Raju, Member (J):

Heard Shri K.R. Sachdeva and Mrs. Rani Chhabra.

2. This RA No.40/2001 is filed by the review petitioners (respondents) to review the order passed by this Tribunal in OA No.878/2000 dated 6.12.2000 wherein the respondents (review petitioners) have been directed to consider the case of the applicant for engagement within a period of two months from the date of receipt of a copy of the order and granting the benefit of temporary status as laid down in the relevant Scheme. While going through the original Application, it has been observed by this Court that the applicant (respondent herein) had worked with the respondents (review petitioners) from 1995 till August 1999 as a Peon. It is also stated by the respondents (review petitioners) that the ratio laid down by the Chandigarh Bench of the Tribunal in the case of Rampal

15

Singh & Others Vs. UT Chandigarh through Secy to Govt., Deptt. of Engineering, Chandigarh Administration & Others is fully applicable in the present case. But it has been observed by this Court that the ratio laid down by the Chandigarh Bench in Rampal Singh's case (supra) is not applicable because in the present case the respondents have failed to show that the applicant (respondent herein) was appointed through the licenced contractors.

3. Learned counsel for the respondents/ (review petitioners) stated that the present RA is filed on two grounds i.e. (i) there is error apparent on the face of record as the Court has observed that the applicant (respondent herein) had worked as Peon whereas there is no cause of action to the applicant (respondent herein) in the OA because the applicant (respondent herein) was engaged through the contractors and the applicant (respondent herein) was not under the direct control of the respondents (review petitioners), (ii) as regards the licenced contractor is concerned, it is stated that the contractors were licenced, but the same information was not available with them at the time of filing the written statement and as such the same could not be submitted at the time of final hearing. But at the relevant time it has been clearly indicated that the applicant (respondent herein) was appointed through Labour Contractors, as such the decision of the Apex Court is distinguishable and the judgement of the Chandigarh Bench of the Tribunal is applicable in the present case.

4. On the other hand, learned counsel of the applicant (respondent herein) contended that the present RA is not

(3)

maintainable as the review could be filed only if there is any error apparent on the face of the record or there has been discovery of new material which after due diligence has not been brought to the notice of Court. The respondents (review petitioners), at the time of final arguments, have failed to prove that the applicant was appointed through Labour Contractor by filing appropriate material as the same had not been put before the Court. As regards the error on the face of record, it has been stated by learned counsel for the applicant (respondent herein) that the applicant (respondent herein) was performing a job of perennial nature. It is her stand in the OA that the applicant (respondent herein) was working as a Peon and the work of Peon is of perennial nature. In this context, the decision of the Apex court is applicable. It is further submitted that the review petitioners (respondents) is attempting to reargue the whole matter.

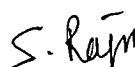
5. We have carefully considered the contentions of the parties.


6. We are of the view that the contention of the learned counsel of the applicant (respondent herein) is not legally sustainable as we find there is no error apparent on the face of the record. The Court has already observed that the applicant had worked as Casual Peon from 1995 till August 1999 and was performing the job of perennial nature, as such the contention of the learned counsel of the applicant (respondent herein) with these observations are contrary to the stand taken by the respondents (review petitioners) is not legally sustainable. As regards the stand taken by the respondents (review petitioners) that the applicant (respondent herein)

(4)

was appointed through registered contractors because they have failed to show any proof for the same, which was very much in possession of the respondents and this cannot be treated as a new material. We do not want to interfere now by way of review. In this view of ours, we are justified by the ratio of Apex Court in K. Ajit Babu & Ors. Vs. UOI 1998 (1) SLJ SC 85.

7. In this view of the matter, we find no merit in the RA and the same is accordingly dismissed. No costs.


(Shanker Raju)
Member(J)


(M.P. Singh)
Member(A)

/ravi/