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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1855 of 2000

New Delhi, this 4th day of May, 2001

HON'BLE SHRI KULDIP SINGH, MEMBER(J)

Ganga Prasad  
S/o Shri Ram Baran  
R/o 14/274, Dakshinपुरi Extension  
New Delhi-110062 .. Applicant

(By Advocates: Shri V. Shekhar with Shri S. Ganesh)

versus

1. Union of India, through  
Ministry of Home Affairs  
F Block, M.S. Apartments  
Kasturba Gandhi Marg, New Delhi
2. Office of the Resident Commissioner  
Andaman Nicobar Administration  
Andaman Nicobar Bhawan  
12, Chankyapuri, New Delhi
3. Chief Secretary  
Union Territory of Andaman & Nicobar Island  
Port Blair, Andaman .. Respondents

(By Advocate: Shri J.B. Mudgil)

ORDER(oral)

This OA has been filed by applicant under Section 19 of the A.T. Act, 1985 whereby he alleges that respondents have removed him from service despite the fact that the work of the nature which he was performing is still available with them.

2. Applicant was initially engaged on 13.11.1995 as Peon-cum-Messenger on daily wage basis in the office of the Finance Commission under the Ministry of Home Affairs and the Finance Commission, which was wound up, has recommended applicant for being considered against suitable existing/future vacancies in the Delhi office of the Andaman and Nicobar Administration (Annexure 'A'). On the basis of this recommendation, he was engaged in

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the office of the Resident Commissioner, Andaman & Nicobar Administration, New Delhi, and thereafter he was disengaged. So, applicant has come up with this OA seeking the relief of re-engagement since it is stated that the work of the nature which he was performing is still available and persons junior to him are still working with respondents.

3. Respondents have contested the OA and stated in their counter affidavit that as per the extant instructions, only local candidates of Andaman & Nicobar Islands should be appointed to any Group 'C' & 'D' post under the Andaman & Nicobar Administration. If no suitable candidate is available, then the Administration is competent authority to approve the appointment of such non local candidates. Besides, learned counsel for respondents has also submitted that since no work on daily wage basis is available with the respondents, the services of applicant was dispensed with and it is denied by respondents that any juniors are engaged.

4. Heard learned counsel for the parties and perused the record.

5. Learned counsel for applicant relies upon judgement of Supreme Court in UOI & Ors Vs Sanjay Pant & Ors 1993 Supp(2) SCC 494 in support of his case. The objection taken in paragraph-4 of the counter affidavit in the present OA was also taken in the said judgement. But this objection was over-ruled by the Tribunal as well as the Hon'ble Supreme Court (supra) and the appeal of the

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Administration was not allowed. On going through this judgement I find that this objection taken in the counter affidavit has no force and they cannot insist that only local candidates of Andaman & Nicobar Islands should be appointed to any Group 'C' & 'D' post under the Andaman & Nicobar Administration. So, this cannot come in the way of applicant for his re-engagement on daily wage basis. However, other ground taken by respondents is that no work is available now.

6. In view of the above, I dispose of this OA with the direction that if and when work is available with respondents, then respondents shall see to it that applicant is re-engaged. If junior is already working, they should see to it that applicant is re-engaged within a period of one month from the date of receipt of a copy of this order. No order as to costs.

  
(Kuldip Singh)  
Member(J)

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