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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.2523 of 2000

New Delhi, this the 28th day of September, 2001

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Suresh Kumar
S/o Shri Kailash Giri
R/o Main Shyam Park,
House No.252, Sahibabad
District Ghaziabad,
Uttar Pradesh.

...Applicant

(By Advocate: Shri D.P. Chaturvedi)

Versus

1. Commissioner,
Kendriya Vidyalaya Sangthan,
JNU Campus,
Mehrauli Road,
New Delhi.
2. Kendriya Vidyalaya
BRBNML, Salboni,
Midnapore (West Bengal)
Through its Principal.
3. Union of India,
Ministry of Human Resources,
Through its Secretary,
New Delhi.
4. Babloo Mahto
C/o BRBNML,
Salboni, Midnapore,
West Bengal.

...Respondents

(By Advocate: Shri S. Rajappa)

ORDER

By Hon'ble Mr.Kuldip Singh, Member(Judl)

The applicant in this OA has alleged that he was engaged as a casual worker by respondent No.2 from 27.7.1998 to 31.7.99 for 265 days on daily wage basis, but abruptly the respondents have refused to allow the applicant to join his duties w.e.f. 1.8.99, whereas the juniors to the applicant are still working and are continuing in service. Thus the respondents by their arbitrary action have violated the fundamental right of

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the applicant under Articles 14 and 16 of the Constitution of India and the applicant has been deprived his right to livelihood under Article 21 of the Constitution of India and thus the applicant has prayed for the following reliefs:-

(a) To declare the said arbitrary and discriminatory action of the respondents to be illegal.

(b) To direct the respondent No.2 to reinstate the applicant with full back wages and all consequential benefit.

2. The respondents, who are contesting the OA, admitted that the applicant was engaged as a daily wage casual worker depending upon the nature of work available with one of the schools of Kendriya Vidyalaya at daily rate of Rs.50/- per day for the actual number of days he worked in a particular manner.

3. The respondents have also submitted that during the period when the applicant was engaged, he was engaged for intermittent periods and he had not been continuously engaged.

4. It is further stated that the applicant himself by his letter dated 30.8.99 had written a letter to the Commissioner of KVS that he be engaged as a casual worker vide Annexure R-2, so he was engaged as a casual worker.

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5. It is also stated that the applicant has no right to claim regularisation in the post and the applicant cannot make any prayer before this Tribunal for regularisation.

6. As far as juniors to the applicant are concerned, it is stated that one Babloo Mahtoo who has also been arrayed as respondent No.4, his appointment stands on totally in a different footing than the case of the applicant and on that basis the applicant cannot claim reinstatement/regularisation.

7. I have heard the learned counsel for the parties and gone through the records of the case.

8. During the course of arguments the learned counsel for the respondents has raised an objection with regard to the territorial jurisdiction of this Tribunal since the applicant was engaged in West Bengal under the respondent No.2 and the OA has been filed in Delhi, so the counsel for the respondents submitted that the Principal Bench of the Central Administrative Tribunal has no jurisdiction to try this OA.

9. On the contrary the applicant has submitted that since the Head Office of the respondents is at Delhi and respondent No.1 is the Head of Office and the said office is located in Delhi, so on that score the applicant can file the OA in Delhi.

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10. The applicant's counsel has also submitted that he has also submitted that he had earlier filed a Writ Petition before the Delhi High Court which was also entertained, but it was returned as the remedy lies before the Tribunal.

11. In my view since the Head Office of respondents is located in Delhi, so the applicant can file this petition in the Principal Bench itself.

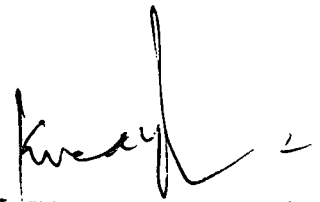
12. Now coming to the facts that whether the applicant has a right to be re-engaged or not, the applicant has submitted that he had worked for a period of 265 days and to substantiate his claim, he has also referred the circular issued by the Principal of KVS which shows that from 27.7.98 to 31.7.99 the applicant had worked for a period of 265 days. This fact cannot be denied by the respondents because payment of wages from July, 1998 to July, 1999 had been made by means of cheques.

13. So the next question arises whether the applicant has a right to be reinstated as a casual labourer. On this score the applicant has pleaded that there are certain juniors who are still working with the respondents, one of them is Babloo Mahto and there are others whose names have been given in para 6.5 of the OA.

14. As regards Babloo Mahto is concerned, it is stated by the respondents that his appointment is of a different nature but there is no denial engagement of other persons, who have been named in para 6.5, so in

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these circumstances I find that the OA has to be allowed since there is no denial to the fact that there are certain juniors casual labourers who are still working with the respondents so in these circumstances I direct that if the work of the nature which the applicant was performing is still available with the respondents in the same school, they shall re-engage services of the applicant within a period of 3 months from the date of receipt of a copy of this order. In the alternative whenever the respondents need to engage casual worker, the applicant will be given preference over freshers and juniors. No costs.


(KULDIP SINGH)
MEMBER (JUDL)

Rakesh