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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Hon'ble Shri Shanker Raju, Member (Judicial)

O.A.No.664/2000

New Delhi, this the 13th day of November, 2001

Shri Rai Singh
c/o Ashina Exports
C-111, Okahla Industrial Estate
Phase-I, New Delhi - 110 029. ... Applicant

(By Advocate: Shri N.Ranganathasamy)

Vs.

1. Union of India through
The Secretary
Ministry of Defence
South Block, Raj Path
Vijay Chowk
New Delhi - 110 001.
2. Engineer-in-Chief
Army Headquarters
Kashmir House
DHQ, P.O., New Delhi.
3. The Chief Engineer
Batinada Zone, Barnala Road
Batinada Cantt-151 004.
4. The Garrison Engineer
B.R. II
Batinada Cantt.-151 004.
5. The Assistant Garrison Engineer
Barnala Road
Batinada Cantt. - 151 004. ... Respondents

(By Advocate: Shri A.K.Bhardwaj)

O R D E R

By Shanker Raju, Member (J):

The applicant who was engaged as a casual labour has assailed an order passed by the respondents on 12.3.1999 wherein his request for implementation of the decision of the Apex Court has been turned down. He has further sought his reinstatement with all the consequential benefits including fixation of seniority, etc.

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2. Briefly stated that the applicant along with 69 other fellow labourers, who were removed from service from different dates, have filed Original Applications before the Chandigarh Bench of this Tribunal in OA No.1157/PB/90 with connected cases. All the OAs have been clubbed together and a common order dated 19.8.1992 had been passed wherein the Court has rejected the application in limine as not maintainable to seek to redress in the appropriate forum under the Industrial Disputes Act. Thereafter, few of the applicants have challenged the OAs before the Apex Court and by an order passed on 2.9.1996 the order of the Tribunal was setaside and respondents have been directed to consider the case in view of the decision of the Apex Court in State of Haryana Vs. Piara Singh (1992) 4 SCC 118. In compliance thereof the applicants therein have been re-employed. The applicant, on becoming aware of the decision of the Apex Court, made a representation to the respondents to implement the decision of the Apex Court in his case also being similarly circumstance. The respondents vide their order dated 12.3.1999 rejected his plea on the ground that the request is belated and as his case has been dismissed and has not been challenged before the Apex Court, he is not entitled for the same relief as accorded to the applicants who approached the Apex Court in SLP.

3. The learned counsel for the applicant has stated that the decision of the Tribunal which was common for all the OAs had having found without jurisdiction having been set-aside by the Apex Court

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implidely to be applied to his case despite dismissal of the OA as the ratio laid down by CAT was common and on reversal of the decision by the Apex Court, the order in his case shall also to be treated having been setaside and he cannot be deprived of the same benefit as accorded to the fellow casual labourers. It is also stated that in view of the decision of the Amrit Lal Berry Vs. Collector of Central Excise, New Delhi & Others, 1975(1) SLR SC 153 that the Judgement of Supreme Court declaring law under Article 141 is bound to be followed and the same is not to be confined to the parties before it but should also be applied to the similarly situated petitioners. In this back ground, it is stated that his case is fully covered by the orders of the Supreme Court and inaction of the respondents to reinstate without consequential benefits as accorded to similarly circumstance casual workers amounts to discrimination under Articles 14 and 16 of the Constitution of India.

4. The learned counsel for the respondents strongly rebutting the contentions of the applicant, stated that the OA is barred by limitation as the applicant has been removed in 1987 and he is assailing his grievance in the year 2000 and having approached this Court in OA 1252/PB/90 and the same is dismissed. No Fresh cause of action has arisen on the same grounds, the application is barred by principles of resjudicata. He also further stated that unless the decision of the Tribunal in the case of the applicant earlier is not set-aside he cannot be accorded the

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same benefit which has been given to the petitioners who approached the Apex Court. As unequals cannot be treated equally. As such there is no discrimination.

5. On merits, the learned counsel for the respondents, stated that the muster rolls have been destroyed being more than 10 years old and having failed to verify any details of the duration of the duties, the applicant's claim cannot be acceded to for want of verification. It is also stated that Government's letter dated 21.10.1998 has been a one-time measure and as such it cannot be made applicable to the case of the applicant.

6. I have carefully considered the rival contentions of both the parties and perused the material on record. The applicant has also filed an MA 1107/2000 for condonation of delay. Wherein he has taken grounds that as in pursuance of the decision of the Apex Court the applicant has made representation and the same having been entertained and the request is rejected in June, 1999 this OA has been filed in March, 2000 which is within the limitation as prescribed under Section 21 of the Administrative Tribunal Act, 1985. In this view of the matter, the objection of the respondents regarding limitation is rejected. As regards the resjudicata is concerned the same would have no application in the present case. The decision of the Tribunal where the ratio has been laid down is common to all the OAs of casual labourers the same has been challenged by few of the employees and having set-aside the decision of the Court, the ratio laid down by the Tribunal in the case of the

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applicant also deserves the same treatment and the same is impliedly overruled by the Apex Court. Apart from it, as per the decision in Amrit Lal Berry's case supra, the decision of the Apex Court is a binding precedent and to be applied to all similarly circumstance casual workers, who have not even approached the Apex Court. The applicant cannot be deprived of this benefit arbitrarily and on hyper technical pleas. No doubt the applicant is similarly situated to those applicants who have approached the Apex Court and were reinstated later on. The applicant being situated equally cannot be meted out an unequal treatment. In nutshell, what emerged out of the discussion is that the Apex Court having setaside the decision of the Tribunal, which was common in all the OAs mutatis mutandis applies to the case of the applicant too. The contention of the respondents that the applicant has to approach the Apex Court for quashing of the order in his OA for the identical claim which has been accorded to the casual labourers who approached the Apex Court cannot be countenanced. As held by the Apex Court in several pronouncements including Chandra Prakash Madhavan Vs. Union of India & Others, 1998 (2) SCSLJ 390 as well as in B.D.Verma Vs. Union of India & Others, 1997 500 (L&S) 179 the benefit of Judgement is to be extended to similarly circumstance persons who have not even approached the Court. In this view of the matter, I am of the considered view that the decision arrived by the respondents to deny the benefits of the applicant is not legally justifiable and is liable to be setaside.

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7. In the result and having regard to the decisions of the Apex Court supra, the applicant is legally entitled to be accorded the same benefit which has been given to the similarly circumstance casual workers and the contention of the learned counsel for the respondents that it was only a one time measure has no legs to stand and is accordingly rejected.

8. In the result, the OA is allowed and the impugned order is set-aside. The respondents are directed to extend the benefits of the decision of the Apex Court to the applicant in letter and spirit. The respondents are further directed to take necessary steps to reinstate the applicant and accord him all the consequential benefits in accordance with the rules within a period of three months from the date of receipt of a copy of this order. No costs.


(SHANKER RAJU)
MEMBER(J)

/RAO/