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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

1. CP No.427/2001 in
OA No.1914/2000

2. CP No.428/01 in
MA-2724/2001
OA-1888/99

3. CP429/2001 in
MA-2699/2001
OA-1676/2000

4. CP-432/2001 in
OA-1724/2000

New Delhi this the 29th day of August, 2002.

Hon'ble Mr. S.A.T. Riavi, Member (Admnv)
Hon'ble Mr. Shanker Raju, Member (Judl.)

CP-427/2001

Suresh Pal,
S/o Sh. Ram Swaroop,
R/o C-39/19, Village Nangla Manchi,
Ring Road, New Delhi-110002. -Petitioner

(By Advocate Shri B.B. Raval)

CP-428/2001

1. Sarju
2. Shyam Dev Parjapati
3. Brahma
4. Pancham
5. Jag Prasad
6. Satish
7. Ravi Prakash
8. Rakesh -Petitioners

(By Advocate Shri B.B. Raval)

CP No.429/2001

1. Dharampal
2. Vinod
3. Umesh
4. Sanjay -Petitioners

(By Advocate Shri B.B. Raval)

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CP No.432/2001

1. Kasturi Lal
2. Pramod
3. Mewa Ram
4. Satish

-Petitioners

(By Advocate Shri B.B. Raval)

-Versus-

1. Sh. P.V. Krishnan,
   Secretary,
   Ministry of Environment & Forests,
   Paryavaran Bhawan, Lodhi Road,
   CGO Complex, New Delhi.

2. Sh. B.S. Bonal,
   Director,
   National Zoological Park,
   Mathura Road, New Delhi.

-Respondents

(By Advocate Shri A.K. Bhardwaj)

O R D E R

Mr. Shanker Raju, Member (J):-

As these CPs are founded on same facts, involving common question of law, these are being disposed of by this common order.

2. In CP-428/2001 directions have been issued in OA-1888/99 on 30.3.2001 to examine the case of the applicants for conferment of temporary status and in this process accommodate a maximum of two nominees of the applicants to remain present during the course of the scrutiny of the relevant documents to ascertain actual number of days. Applicants had worked for number of days from 1985 onwards. Sh. Raval stated that the respondents have flouted the directions of the court in so far as the appointment of two persons without giving a reasonable opportunity despite having worked for 205 days in the years 1976-77 and 1977-78 they have not been accorded temporary status.

3. Respondents in their reply by referring to an order passed in CP-378/2001 in OA-880/99 in Ashok & Ors. v. B.S. Bonal & Ors. contended that a similar CP was dismissed.

It is further stated that the daily paid labourers have been engaged strictly on the basis of the seniority and as National Zoological Park has been drawn into different section with different section with different types of work such as Sanitation, Animal Section, Store Section etc. all Section Supervisors have been authorized to maintain Muster Roll in respe t of the sphere of work allotted to them. The Supervisors are engaging DPL as per their requirement to carry out seasonal and intermittent nature of work. Engagement is done strictly on the basis of the seniority. It is contended that the petitioners have not rendered 240 days of service in any year and their nominees have been called to recheck but they have refused to sign the rechecked documents.

4. Petitioners in CP-428/2001 in OA-1888/99 have also filed CP-245/2002 stating that the respondents though without conferring temporary status and considering them for regularisation have advertised the job of class IV by engaging a contractor and appointing 28 persons. These persons are juniors to them. On this basis they have sought direction to keep in abeyance the advertisement.

5. CP-429/2001 in OA-1676/2000 has been filed complaining the directions given in OA-1676/2000 to the respondents to consider the case of the applicants for grant of temporary status and regularisation in their turn have not been complied with. Sh. Raval alleges alleges wilful and contumacious disobedience in so far as applicants have not been accorded temporary status and further regularisation.

6. He also prefers MA-2699/2001 in CP-429/2001 praying for production of acquittance rolls as well as muster roll to ascertain that the applicants have worked for requisite days which entitle them for accord of temporary status.

7. He has also filed CP-211/02 in CP-432/2001 assailing action of the respondents where they have advertised through a contractor for assigning the jobs for class IV.

8. Respondents in their reply denied the contentions and maintained that none of the applicants had completed requisite days which entitle them for accord of temporary status and further regularisation as per the DOPT Scheme and referred to CP-378/2001 in OA-880/99 where in an identical case CP was rejected. In so far as their reply to MA is concerned, for production of record it is stated that the record is voluminous and the period has not been mentioned as to what period the record is to be brought.

9. In OA-1724/2000 through CP-432/2001 applicants assail wilful and contumacious disobedience of the court's order dated 1.6.2001 directing the respondents to consider engaging the applicants in preference to juniors and outsiders and further consideration for conferment of temporary status. Sh. Raval also filed CP-173/2002 in CP-432/2001 questioning the advertisement by the respondents whereby class IV jobs are to be engaged through a contractor. Through MAs 2279 and 2270 of 2001 direction for restraining the respondents to disengage the applicants was sought, as well as a prayer to produce the muster roll.

10. Sh. A.K. Bhardwaj in reply to the contempt stated that the pre-requisite of 240 days was within a year has not been fulfilled, as such applicants are not entitled for accord of temporary status and in reply to MAs it is stated that the bulcky muster record cannot be produced, but, however, stated that applicants have also failed to specify the exact period for which the record is to be produced.

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11. In OA-1914/2000 through CP-427/2001 applicants allege wilful and contumacious disobedience of the directions of this court contained in order dated 8.2.2001 wherein respondents have been directed to consider the claims of the applicants for grant of temporary status and further regularisation.

12. Sh. Bhardwaj in his reply stated that the applicants though have not completed 240 days service in any year and the Scheme of DOPT dated 10.9.93 is not applicable.

13. Sh. Bhardwaj has also produced the muster roll pertaining to the period September-October, 1993 and contended that the Scheme of DOPT dated 10.9.93 provides for conferment of temporary status on all casual labourers who were in employment on the date of issue of the OM having rendered a continuous service of at least one year in case of offices observing five-day week 206 days. By placing reliance on a decision of the Apex Court in Union of India v. Mohan Pal, 2000 (4) SCC 216 where the provisions of para 1 (iv) of the Scheme are incorporated with an observation that only those who were in employment on the date of issue of the Scheme of 10.9.93 are entitled to temporary status, as the scheme is one time measure. It is stated thatnone of the applicants in the aforesaid CPS are covered under the Scheme as being ineligible having not worked for the requisite days as envisaged in the scheme.

14. In so far as the case of one of the applicants Suresh Pal in OA-1914/2000 is concerned, it is stated that even if Suresh Pal who was absent is presumed to be treated on duty as on 1.9.93 having not rendered 240 days during any span of 365 days he cannot be accorded benefit of either temporary status or regularisation.

15. We have carefully considered the rival contentions of the parties and perused the material on record. In our considered view the directions given in all these OAs pertaining to the applicants who were engaged on casual basis to consider them for accord of temporary status and regularisation and this was to be done in accordance with the DOPT Scheme, dated 10.9.93.

16. Para 4 (i) of the Scheme envisages and pre-requisites rendering of continuous service of at least one year on the date and the casual labour should be in employment on the date of issue of the Scheme.

17. In so far as applicants in all other OAs except Suresh Pal in OA-1914/2000 is concerned, they had not rendered the requisite service and in one of the cases even on inspection by two nominees applicants therein have not been found to have rendered a continuous service of 240/206 days, as envisaged in the Scheme. Having failed to render the requisite days and are not in employment on the date of introduction of the Scheme in view of the decision of the Apex Court in Mohan Pal's case (supra) they are neither entitled to be considered for temporary status nor entitled to be accorded the benefit of the Scheme. The consideration also was subject to the provisions of the Scheme and rules and instructions. Having failed to bring their cases within the purview of the Scheme we do not find any wilful or contumacious disobedience of the directions of the Tribunal on the part of the respondents.

18. In so far calling of the record is concerned, firstly no specific period has been mentioned by the applicants but, however, from the perusal of the relevant period, i.e., September-October, 1993 as the applicants had not completed the requisite days of engagement, we are satisfied that the respondents have acted in accordance with the Scheme as per rules and instructions. The request for calling of the entire record being voluminous cannot be countenanced. Moreover,

without the help of the record the controversy has been adjudicated.

19. In so far as the claim that the respondents have called for tender calling upon contractors to employ persons in class IV jobs. In view of the decision of the Apex Court in Steel Authority of India v. National Union Water Front Workers and Others, JT 2001(7) SC 5 the issue is no more res-integra and for remedy the Tribunal is not an appropriate forum and lacks jurisdiction to deal with this issue.

20. In the result and having regard to the reasons recorded above, we do not find any contempt, contumacious or wilful disobedience by the respondents of the directions contained in all these OAs. Moreover, a fresh cause of action cannot be gone into in a contempt proceeding, as held by the Apex Court in J.S. Parihar v. Ganpat Duggar & Ors., JT 1996 (9) SC 611. The CPS and MAs are accordingly dismissed. Notices issued to the respondents are hereby discharged. However, this will not preclude the applicants to assail their surviving grievance in the appropriate forum, in accordance with law. No costs.

(Shanker Raju)
Member(J)

(S.A.T. Rizvi)
Member(A)