(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.Nos.(1) OA 1740/88
(2) OA 2004/88

Date of decision: 22.01.92.

(1) OA 1740/88

Shri Kishan ...Applicant

Vs.

Central Road Research Institute, Delhi ...Respondents

(2) OA 2004/88

Shri Mahender Singh & Another .Applicants

Vs.

Central Road Research Institute, Delhi. .Respondents

For the Applicants in (1) and (2) above .In person

For the Respondents in (1) and (2) above Shri A.K. Sikri, Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.K.CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? Yes

2. To be referred to the Reporters or not? Yes

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha, Vice Chairman(J))

The applicants who have worked as Helpers on daily wages basis in the Central Road Research Institute(CRRI), which is a constituent unit under the C.S.I.R., are aggrieved by the termination of their services. They have prayed for setting aside and quashing the impugned orders of termination on the ground that they have been passed without giving one month's

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notice to them as required under Section 25F of the Industrial Disputes Act, 1947. They have prayed for their reinstatement with full back wages.

2. We have gone through the records of the case carefully and have heard the learned counsel for the respondents. The applicants have filed written submissions and we have duly considered them. In Padma Ravinder Nath & Others Vs. CSIR, th Full Bench of this Tribunal has held in its judgment dated 25.10.1990 that CSIR is an 'industry' within the meaning of Section 2(j) of the Industrial Disputes Act, 1947. So far as the contituent units of the CSIR and their employees are concerned, the Full Bench has observed that in the absence of the proper data and material, it would be neither appropriate nor expedient to determine the question by the Full Bench.

3. For the purpose of disposal of these applications, it is not considered necessary to go into the question which has been left open by the Full Bench. We may proceed on the basis that CRRI is an 'industry' and the applicants before us are 'workmen' entitled to the protection of the Industrial Disputes Act, 1947. This would not, however, be of any assistance to the applicants in view of the decision of another Full Bench in A. Padmavalley and Others Vs. CPWD and Telecom dated 30.10.1990. The Full Bench has held that an applicant seeking a relief under the provisions of the Industrial Disputes Act must ordinarily exhaust the remedies available under that Act. The applicants before us have not done this. The Full Bench have, however, observed that it is open to the Tribunal exercising power under Article 226 of th

constitution to set aside the order of termination and to direct reinstatement of the employee in cases where the competent authority ignores statutory provisions or acts in violation of Article 14 of the Constitution.

4. We may consider the matter in the light of the above. As common questions of law have been raised in these applications, it is proposed to dispose them of in a common judgment.

5. The applicants have worked as Helpers in CRRI between 1987 and 1988. There is divergence in the version of the applicants and the respondents as regards the period of service. The applicants contend that they have worked for more than 240 days while the respondents deny this. The number of days worked by them is also not relevant on the face of their contention that after terminating their services, the respondents have recruited fresh persons, overlooking their preferential claims and thereby violated the provisions of Article 14 of the Constitution. In this context, the applicants have furnished the names of 13 such persons who were engaged by CRRI between 10.10.1988 and 19.8.1991. They have also stated that there are at least 13 posts of regular Helpers still vacant.

6. The respondents do not deny having appointed fresh recruits but they have sought to justify the same on the

ground that 8 of the fresh recruits were recommended for appointment by a duly constituted committee and five others were appointed on compassionate grounds/or transfer basis along with the post on the closure of a Project. They have also made available to us the relevant file pertaining to the proceedings of the committee.

7. The suitability of the applicants for engagement was considered by the Screening Committee but they were not recommended for engagement. The respondents have stated that one post of Helper (reserved for S/C) and one post of Peon (reserved for S/T) have fallen vacant and that they are in the process of filling them up. They have requested the Employment Exchange to send the names of the eligible candidates and have stated that the applicants are also being invited to send applications for consideration along with other eligible ex-daily workers for appointment.

8. There is no reason to disbelieve the above version submitted by the respondents. In case they decide to fill up vacancies of casual labourers or Helpers or peons, we direct that the suitability of the applicants shall also be considered along with the other eligible candidates. We further hold that the respondents shall not insist on the names of the applicants being sponsored by the

Employment Exchange, each time as they were originally engaged after they had been sponsored by the Employment Exchange. They should also be given relaxation in age to the extent of the service already put in as Helpers in the office of the respondents. The applications are disposed of accordingly.

There will be no order as to costs.

Let a copy of this order be placed in both the case files.

22/1/1992
(D.K. CHAKRAVORTY)
MEMBER (A)

22/1/92
(P.K. KARTHA)
VICE CHAIRMAN(J)

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