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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P. NO. 82/94 in
O. A. NO. 1454/90

New Delhi this the 14th day of November, 1994

HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN
HON'BLE SHRI P. T. THIRUVENGADAM, MEMBER (A)

Shri Shiv Shankar Rai,
Vill. & P.O. - Tajpur Manjha,
Via - Zamana,
Distt. Ghazipur-232329.

... applicant

By Advocate Shri R. P. Oberoi

Versus

Shri Chandra Dhar Tripathi,
Secretary,
Department of Official Languages,
Ministry of Home Affairs
(Hindi Teaching Scheme - C.H.T.I.)
2nd Floor, Lok Nayak Bhawan,
Khan Market,
New Delhi - 110003.

... Respondent

By Advocate Mrs. Rajkumar Chopra

ORDER (ORAL)

(Hon'ble Shri Justice S. C. Mathur) -

The applicant alleges disobedience by the respondents of this Tribunal's judgment and order dated 16.2.1993 passed in O.A. No. 1454/90.

2. In the aforesaid O.A., the claim of the applicant was that he was entitled to be regularised in the manner others similarly situate had been regularised, and that he had not been paid salary for certain period he actually worked. The Tribunal while dealing with the grievance of the applicant issued the following directions -

(i) The respondents shall consider the applicant for regularisation as Hindi

Pradhyapak in the same manner as those who were regularised pursuant to the order dated 23.10.1984, giving age relaxation to the extent of the service rendered by the applicant; this direction was to be complied with expeditiously and preferably within three months from the date of communication of the order;

(ii) Pending consideration of the case of the applicant the respondents shall consider the applicant as Hindi Pradhyapak if any vacancy arises or exists anywhere in India where they have their offices; and
(iii) the respondents shall release to the applicant the arrears of pay and allowances for the period of work done by him, as indicated in his letter dated 11.12.1989; this direction was to be complied with expeditiously and preferably within a period of three months from the date of receipt of a copy of the order.

3. So far as the first direction is concerned, the applicant was considered and by a speaking order dated 17.12.1993, regularisation has been denied to him. One of the reasons for denying regularisation is that the applicant did not fulfil the age qualification. The learned counsel submitted that others who had been regularised also did not fulfil the age qualification and yet they were regularised.

At this stage, we are not concerned with the question whether relaxation was given to certain others, because the direction of the Tribunal is specific, the same being that relaxation was to be given only to the extent of the service rendered by the applicant. Admittedly, on the date the applicant was first engaged, he was over-age. Therefore, there is no question of giving him any age relaxation. There is no direction of the Tribunal to grant relaxation without any limit. It cannot, therefore, be said that the first direction has not been obeyed by the respondents.

4. So far as the second direction is concerned, it is not of a mandatory nature. The respondents were only required to consider accommodating the applicant. It is not disputed that the applicant was offered appointment on 26.6.1993, which he continued to hold upto 30.11.1993, when the said appointment ceased. Accordingly, the applicant has been accommodated to the extent it was possible for the department. The learned counsel submitted that vacancies existed and, therefore, there was no occasion to dispense with the services of the applicant before 17.12.1993 when final order on the claim for regularisation was passed. We are unable to agree with the submission of the learned counsel for two reasons — (i) the direction in clause (ii) is not of mandatory nature, and (ii) the respondents were considering the claim of the applicant and by the date they took a final decision not to regularise his services they did not dispense with his services; the written final order came to be passed subsequently.

5. It is not disputed by the learned counsel for the applicant that the applicant has been paid for all the periods for which he worked in pursuance of appointment orders issued to him and that he has not been paid only for the period the applicant claims to have worked but there is no appointment order in support of his claim. The applicant was in the employment of a department of the Government. He was not in private employment. From the admitted position that appointment orders were issued, it is apparent that appointments were offered through written orders. In the circumstances, the applicant's claim for salary for the period he claims to have worked without any written order of appointment cannot be sustained.

6. In view of the above, no case for disobedience has been made out. The application is accordingly rejected. Notice issued is hereby discharged. There shall be no orders as to costs.

P. T. Thiruvenkadam

(P. T. Thiruvenkadam)
Member (A)

S. C. Mathur

(S. C. Mathur)
Chairman

/as/