

OR

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2418 OF 2004

New Delhi, this the 16.8. day of August, 2005

HON'BLE SHRI M.K. MISRA, ADMINISTRATIVE MEMBER

1. Naresh Kumar,
S/o Shri Charan Singh,
R/o 103, Purani Seema Puri,
Delhi.
2. Vivek Kumar
S/o Shri Om Prakash,
R/o F-65, Gali No. F-2,
East Vinod Nagar,
Delhi.Applicants.

(By Advocate : Shri M.K. Bhardwaj)

VERSUS

1. Union of India,
Through,
Secretary,
Ministry of Labour,
Shram Shakti Bhawan,
New Delhi.
2. The Commissioner,
Employees Provident Fund Organization,
Hqrs. Bhikaji Cama Place,
New Delhi.
3. The Regional Provident Fund Commissioner,
Nidhi Bhawan, Sarvodaya Nagar,
Kanpur-208005 (UP).
4. Regional Provident Fund Commissioner,
A-2C, Sector-24, Noida-201301 (UP).
5. Praveen
S/o Shri Kishan
Working as Casual Labour
in the Office of Respondent NO.4
6. Samar Bahadur,
S/o Shri Suryamani Yadav,
Working as Casual Labour,
In the Office of Respondent NO.4
7. Naresh Kumar
working as Casual Labour,
in the office of Respondent No.4. Respondents.

(By Advocate : Shri Anujay Sharma for Shri U.N. Gaur – Respondent No.4
None for other respondents.)

OR D E R

Heard the learned counsel for the parties.

2. Two applicants - S/Shri Naresh Kumar and Vivek Kumar have filed this OA seeking the following reliefs:-

- “8. (i) to quash and set aside the impugned orders dated 25.8.2003 colly whereby the services of applicants have been terminated.
- (ii) to direct the respondents to re-engage the services of the applicants in preference to juniors and outsiders.
- (iii) to direct the respondents to re-engage the applicants with all consequential benefits by terminating the services of respondent no.5 to 7.
- (iv) to pass such other and further order which their Lordships of this Hon’ble Tribunal deem fit and proper in the existing facts and circumstances of the case.

9. **Interim relief:**

Pending final disposal of the OA, their lordships of this Hon’ble Tribunal may be pleased to direct the respondents to re-engage the services of the applicants to discharge the perennial nature of work.”

3. MA No.2014/2004 was also filed with the following prayer:-

“In view of the facts and circumstances mentioned above, it is humbly prayed that the applicants may be allowed to one and joined OA.”

4. Another MA No.506/2005 was filed by the applicants with the following prayer:-

“In the premises of the above, it is respectfully prayed that this Hon’ble Tribunal may be pleased to direct the respondents to consider the applicants for appointment against the said Group ‘D’ post in preference to juniors and outsiders.”

5. In MA No.890/2005, applicant No.1 prayed in the following manner:-

“In view of the facts and circumstances of the cast, it is humble submitted that the Hon’ble Tribunal may be pleased to allow the applicant no.1 to withdraw his OA with liberty to file again, if grievance survives.”

6. In MA No.891/2005, applicant No.2 prayed in the following manner:-

“In view of the above said facts and circumstances, this Hon’ble Court may be pleased to direct the respondents to consider

14

the claim of the applicant No.2 in OA for appointment against group D post in preference to juniors and outsiders.”

7. In another MA No.977/2005, applicant no.2 made the following prayer:-

“In the premises of the above, it is respectfully prayed that this Hon’ble Tribunal may be pleased to allow the applicant to amend his OA in the manner mentioned in Para 7 of MA.

Such other and further order which their Lordships of this Hon’ble Tribunal deem fit and proper may please be passed.”

In this MA prayer in Para 7 of the MA was referred to as under:

“7. That the amendment sought to be made is very necessary to determine the issue involved in the OA. The applicant may be allowed to permit to amend his OA.

H. Because the Respondents have acted in violation of their own letter dated 15.6.2004 as in the said letter has been stated that the applicant shall be considered for appointment as and when vacancy is available but the Respondents have not even considered the applicant what to talk of giving priority.

I. Because the Respondents have acted in violation of Section 189 (4) of AT Act. In the said provision it has been envisaged interalia that all the proceedings related to a matter/issue in respect to which OA has been admitted would abate but the Respondents have gone ahead and made the appointment. The appointment of Smt. Sanno Pal is void ab initio.

J. Because the Respondents have acted in violation of Article 14 & 16 of the Constitution of India as they have not considered the applicant for appointment inspite of his eligibility and suitability. The Respondents have not given any response to the application submitted by the applicants for consideration for appointment against the post to which Smt. Sanno Pal has been appointed.

The applicant may be permitted the following two prayers in the Prayer Clause:

- (v) To quash and set aside the appointment of newly impleaded Respondent.
- (vi) To direct the Respondents to consider the applicant No.2 for appointment against the vacancy to which Smt. Sanno Pal has been appointed.”

8. From the above, it is observed that the relevant prayer in the Original Application has been substantially changed by the further prayer made in MA 977/2005. Similarly, in MA No.506/2005, it was prayed that two applicants should be allowed to join together in OA 2418/2004 whereas in MA 890/2005 filed by applicant No.1, a prayer has been made that he should be allowed to

(Signature)

withdraw from OA with liberty to file another OA, if grievance survived. In other MAs also different prayers have been made. In the light of the above discussion and above facts, pleadings are quite contradictory in nature and confusing with multiple reliefs. Thus, the OA and all MAs referred to above are dismissed with liberty to the applicants to file a fresh amended OA, if so advised.

No costs.



(M.K. MISRA)
MEMBER (A)

/ravi/