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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.1640 OF 2004

New Delhi, this the 9th day of July, 2004

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Shri Mahipal Singh -II  
S/o Luda Singh,  
C/o D-1/83, Bharti Nagar,  
New Delhi. ....Applicant  
(By Advocate : Shri M.L. Chawla)

versus

1. Union of India through  
Secretary, Ministry of Rural Development  
Department of Rural Development,  
Krishi Bhawan, New Delhi.
2. Director (Admn.)  
Ministry of Rural Development,  
Department of Rural Development,  
Krishi Bhawan, New Delhi. ....Respondents

ORDER (ORAL)

This Original Application has been filed by  
Mahipal Singh-II under Section 19 of the  
Administrative Tribunals Act, 1985 has been filed  
claiming the following reliefs:-

- "8.1 To quash and set aside the illegal action of the respondents in engaging fresh labourers ignoring the just claim of the applicants in the matter of public appointment under the Government of India;
- 8.2 To direct the respondents to re-engage the applicant who has already been directed by this Hon'ble Tribunal to be re-engaged, as and when the work is available with the respondents;
- 8.3 The applicant who is scheduled castes and is badly in the need of re-engagement so as to enable him to have means of livelihood for his children and family in the hour of acute necessity deserves re-engagement forthwith when they are engaging labourers from open market;
- 8.4 Any other order(s), direction(s), relief(s) as deemed fit in the facts

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and circumstances of the case so as to meet the ends of justice; and

8.5 To allow this application with costs against the respondents."

2. The applicant had earlier filed OA No.2064/2001 seeking a direction for regularisation in terms of decision of the Hon'ble Supreme Court in the case of Surinder Singh Vs. Engineer-in-Chief CPWD (1986) I Sec.639. This Tribunal by order dated 31.1.2002 had observed as follows:-

"6. I have carefully considered the matter. Facts are not disputed. The applicant was engaged as a daily wager between May and October 2000 as well as May and August 2001, i.e. for 144 and 106 days and just two days in January 2001. That being the case he does not fulfil the eligibility conditions for grant of temporary status in terms of DoPT's Scheme dated 10.9.93. That being the case, respondents cannot be found fault with for dispensing with the applicants' services, w.e.f. 31.8.2001 which has been stayed, only on account of the applicant's filing the O.A. At the same time the respondents have also assured that he will be given preference, if similar work arises in future. Nothing further remains to be done.

7. In the above view of the matter, which disallowing the OA, as being devoid of merits, I would advise the respondents to consider the engagement of the applicant as daily wager, if they have work of the type he was performing, and as promised by them in the OM No. D-31013/05/2001-Genl dated 11.9.2001. No costs."

3. The claim of the learned counsel of the applicant is that inspite of applicant offering himself to be employed, he has not been engaged. Rather he has been totally ignored and was given a "thrashing". The learned counsel has further pointed out that during October, November and December 2003

*Carry on*

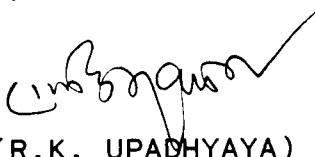
new casual labourers have been engaged. Details of such persons have been given in Para 1 of the OA as well as in Para 4.6 of the OA. It is claim of the applicant that in spite of directions of this Tribunal, the applicant has not been "reinstated" even though work was available. Even the respondents had promised to consider the case of the applicant and give him preference for re-engagement when any daily wage work arises in future as per OM dated 11.9.2001 (Annexure A-2).

4. The arguments of the learned counsel of the applicant have been considered. The material available on record have been perused. It is clear from the order dated 31.1.2002 in OA 2064/2001 (Annexure A-1) as extracted earlier that the OA was dismissed being devoid of merit. However, only an advice was given to the respondents to consider the case of the applicant for engagement in terms of their own promise dated 11.9.2001 (Annexure A-2). As a matter of fact, the applicant has no enforceable right in law for interference by this Tribunal by issuing a direction to the respondents to engage him. The fact whether so called freshers have been engaged after rejecting the applicant's claim is not borne out from the records. At the time when the work of casual nature arose whether the applicant had offered himself for being considered alongwith others cannot be found out at this stage. The learned counsel explained that the "thrashing" referred to in para 4.6 of the OA was merely verbal thrashing and no physical thrashing

*C. B. Rayamajhi*

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was involved. May be that some persons were engaged already and thereafter the applicant approached the respondents. At that stage, perhaps, it would not be possible for the respondents to dis-engage the persons already working and engage the applicant. Besides the engagement of the applicant is subject to the condition that his work was found satisfactory and he was considered suitable for the work which was available with the respondents. As already pointed out that the applicant has no enforceable right so that direction can be given to the respondents at this stage. In the facts and circumstances of the case, this Original Application is being disposed of at the admission stage without issuing the notice to the respondents. The Original Application is dismissed accordingly without any order as to costs.

  
(R.K. UPADHYAYA)

ADMINISTRATIVE MEMBER

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