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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

RA 329/2004 in
OA 981/2004

New Delhi, this the 5th day of January, 2005

Hon'ble Mr. S. K. Malhotra, Member (A)

Titu Ram & Ors.

...Applicants.

Versus

Union of India & Ors.

...Respondents.

ORDER

By Hon'ble Mr. S.K. Malhotra

The present application has been filed by the applicant to review the decision taken by the Tribunal vide order dated 29.10.2004 in OA 981/2004 which pertains to grant of temporary status and regularization of casual labourers.

2. The main point raised in the Review Application is that some of the judgements, which were given by the learned counsel for the applicant after the case was discussed in the Tribunal and the judgement was reserved, have not been discussed and taken into consideration while passing the order dated 29.10.2004. It will be pertinent to mention that during the course of the arguments in the above case, the learned counsel for the applicant had not cited any of the judgements mentioned in the Review Application in support of his contentions. It will be appreciated that it would not be fair and reasonable to discuss any judgement in the order passed by the Tribunal, if the same had not been cited and argued upon at the time of discussion in the Court. If it is done, the opposite counsel will not get any opportunity to put forth his views on the points raised in such judgements, which

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will be totally unfair. Only those judgements can be discussed in the order which were cited at the time of arguments, although copies of which could be given later. This did not happen in this case and no liberty was given to the counsel for giving such judgements afterwards which were not cited at the time of arguments. The applicants cannot be allowed to raise new points at this stage which were not discussed at the time of arguments. The plea taken by the learned counsel for the applicant in regard to these judgements cannot, therefore, be accepted.

3. In the Review Application, a reference has also been made to the judgement in the case of **Surinder Singh and Ors. Vs. UOI and Ors.** and another case of **Raj Kamal and Ors. Vs. UOI and Ors.** which according to him were not argued at all by either of the counsel. The averment made by the learned counsel for the applicant in this regard is absolutely correct. These judgements formed the basis of the issuance of O.M. dated 7.6.1998 and 10.9.1993 by DOP&T, as mentioned in these OMs, and were not required to be discussed. The reference to these judgements in the Review Application is therefore, completely misplaced.

4. The case of the applicants for conferring temporary status and regularization, especially those who were engaged after 1993 involves a policy decision and the same has been dealt with on merit, based on instructions issued by DOP&T. It has already been clarified by DOP&T that the OM dated 7.6.1998 is not a scheme of regularization of casual labourers but contains detailed instructions for their engagement on casual basis. The Hon'ble Supreme Court has also held that the Scheme of conferment of temporary status and regularization announced in 1993 was a one-time measure and was not a continuing Scheme. Therefore, regularization of casual labourer engaged after


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1993 is not permissible either under 1993 Scheme or under the instructions contained in the O.M. dated 7.6.1988. A conscious decision has been taken on this aspect of the matter, in the O.A. based on the arguments advanced by both the counsel, the available material and keeping in view the judgement of the Apex Court.

5. The findings which have been recorded in the order dated 29.10.2004 do not suffer from any mistake, much less a glaring mistake. The provisions of Rule 1 of the order XLVII, of the Code of Civil Procedure, 1908, are not attracted in this case. The applicants by means of this application have sought to reopen the case on merit which is not permissible in a Review Application.

5. In view of the above, the Review Application turns out to be without any merit and is accordingly dismissed.


(S.K. Malhotra)
Member (A)

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