

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

CP 61/95 OA No.491/199

(16)

New Delhi, this 22nd day of March, 1995

Shri Justice S.C.Mathur, Hon'ble Chairman
Shri P.T.Thiruvengadam, Hon'ble Member(A)

Shri Dinesh Chand
s/o Shri Satya Prakash
120B, Kartar Nagar
Shahdara, Delhi

.. Applicant

By Advocate Shri M.K. Gupta

versus

Union of India, through

1. Shri R.K. Takkar
Secretary
M/Communications
Ashoka Road, New Delhi

2. Shri Murari Singh
Sub-Divisional Officer(Telegraph)
Rishikesh .. Respondents

ORDER(oral)

Shri Justice S.C. Mathur

The applicant alleges disobedience by the respondents of the Tribunal's judgement dated 21.4.93 passed in OA 491/92 - Dinesh Chand Vs. UOI & Ors.

2. The aforesaid petition of the applicant was decided alongwith 19 other applications. It appears that the applicant in that application had claimed the benefit of the Scheme introduced by the Department of Telecommunication for grant of temporary status and regularisation of the casual labourers employed in that Department. All the applications were disposed of with the direction contained in para 5, which reads as under:

2

"We direct the respondents to apply the aforementioned Scheme to the case of the petitioners and give them necessary reliefs in accordance with the Scheme. If the concerned authority comes to the conclusion that some of the employees can not be given the benefit of the Scheme, it shall pass an order to that effect after giving reasons."

3. After the judgement, the applicant made a representation to the departmental authorities which rejected the same observing "the case has been examined and it is not found feasible to take the said casual labour under employment in view of ban on recruitment of casual labour after 30.3.85 imposed by DOT"

4. The learned counsel for the applicant has submitted that the cut off date of ban-30.3.85 has been found to be invalid by a Bench of this Tribunal and this fact has been taken notice of by the Lordships of the Supreme Court in their judgement dated 6.3.92 passed in WP 1041/88 filed by Brij Kishore & Ors. Vs. UOI & Ors. and therefore, the applicant could not be denied re-engagement on the ground that ban on recruitment had been imposed with effect from 30.3.1985.

5. We find substance in the submission of the learned counsel for the applicant that the reason given in the reply of the Department dated 20.11.93 is not sustainable. However, we find that on admitted facts the applicant is not entitled to any benefit under the Scheme on the basis of which his claim was required to be considered. A copy of the scheme had been filed by the applicant as Annexure

2

to the OA. Admittedly, the scheme was made enforceable with effect from 1st October, 1989. In paragraph 4 of the Scheme, it is provided that "till the absorption of all existing casual labourers fulfilling the eligibility conditions". (emphasised)

6. Again in para in paragraph 5(i), it is stated that "Temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service of at least one year". From these provisions it is apparent that the benefit of the scheme was available only to those who were in employment on 1st October, 1989 and who fulfilled the other conditions prescribed in the Scheme including completion of 240 days. The learned counsel for the applicant admitted that the applicant's engagement was discontinued in February, 1988. Thus, the applicant was not in service as casual labour on "1.10.89" with effect from which date the said scheme came into force. Accordingly, he is not entitled to be considered either for grant of temporary status or for regularisation under the above scheme.

7. The learned counsel submitted that in view of the fact that the applicant's application has been rejected on wrong basis, notice may be issued to the respondents.

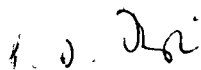
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24

3. Issue of notice to the respondents would be a futile exercise. It is apparent that once the respondents take the plea that the scheme is not applicable to the applicant, we will ^{have} to discharge the notice. Courts do not undertake futile exercises.

9. The learned counsel invited our attention also to the compromise which was effected between the applicant and the administration on 5.1.89 before the Labour Commissioner. It appears from that compromise that the applicant was satisfied with his disengagement in February, 1988 on acceptance of one month's wages. The compromise provided that if any vacancy arose in a particular Division, he may be considered on priority basis. If there is any violation of the conditions of that compromise, the remedy would be to challenge the case elsewhere and not by making a contempt petition.

10. In view of the above, the contempt petition lacks merit and is, therefore, dismissed in limine.



(P.T. Thiruvengadam)
Member (A)
22.3.1995



(S.C. Mathur)
Chairman
22.3.1995

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