

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 28th day of February, 2003.

Original Application No. 597 of 2001.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman.

1. Lokesh Kumar S/o Sri Ram Singh
R/o Chanakyapuri, Bareilly.
2. Ashok Kumar S/o Sri Tara Chander
R/o 221-E, Prem Nagar, Bareilly.

.....Applicants

Counsel for the applicants:- Sri R.D. Agarwal

V E R S U S

1. Union of India through the Secretary,
M/o External Affairs, Government of India,
New Delhi.
2. Administrative Officer, CPV Division (PV-4)
M/o External Affairs, Govt. of India, New Delhi.
3. The Passport Officer, M/o External Affairs,
Govt. Of India, Bareilly Development Authority
Building, Izatnagar, Bareilly.
4. Sri Atul Krishna Saxena
5. Sri Aleem Husain
6. Sri Dal Chand
7. Mohd. Asif
8. Gireesh Chandra Bisht
9. Harish Kumar
10. Pramod Kumar.

All are working as Casual Labourers
office of the Passport Officer, B.D.A
Complex, Izetnagar, Barielly.

.....Respondents

Counsel for the respondents :- Sri G.R. Gupta

O R D E R (Oral)

By this O.A under section 19 of the Administrative
Tribunals Act, 1985, applicants have challenged the order

dated 05.08.1998 (annexure A-1) by which the respondents have taken decision to withdraw the temporary status and to recover excess payment^s made to the applicants. Alongwith order a list dated 02.11.2000 has been annexed showing name of both the applicants.

2. Sri G.R. Gupta, learned counsel for the respondents has raised preliminary objection that both these applicants earlier filed O.A No. 1254/1997 for the same relief and the aforesaid O.A was dismissed by the order dated 29.06.1998 with the following direction :-

"Following the judgment of the Apex Court in Passport Officer, Trivendrum and others v/s Ram Gopal Singh and others, it is hereby held that the relief sought by the applicants, they are not entitled for the said reliefs and hence application deserves to be dismissed and is dismissed. Looking to the facts and circumstances, we find that it was a matter of adjudication as the scheme was in favour of the applicants, there was judgment of Principal Bench in their favour, interim order was passed in their favour in O.A No. 121/97, hence it is ordered that both the parties shall bear their own costs.".

3. Learned counsel for the respondents also submitted that against the order dated 29.06.1998 a Review Application was filed which was registered as Rev. Application No.21/98 which was heard and dismissed on 13.09.2000. Thus the submissions made by counsel for the respondents appears to be correct that the present O.A is not legally maintainable.

4. Sri R.D. Agarwal, learned counsel for the applicants has, however, submitted that the applicant^s have filed an affidavit in the present O.A that they never challenged the order dated 17.01.1997 in O.A 1254/97 nor they filed any Review Application. It has been stated that in the order dated 17.01.1997 names of the applicants were not



mentioned hence there was no occasion for them to challenge the order. It is submitted that the present O.A is legally maintainable.

5. I have considered the submissions made by counsel for the parties. I have also perused the record of O.A No. 1254/97 and record of Review Application No. 21/98.

6. In O.A No. 1254/97 applicants Lokesh Kumar and Ashok Kumar separately filed their affidavits stating in paragraph 4 that the Passport Officer, Bareilly ordered to withdraw the temporary status and also to make recovery of excess payment due to pay and allowances since 01.09.1993. Thus, from the aforesaid averment it appears that the applicants were fully aware that in pursuance of the order dated 17.01.1997 their temporary status is being withdrawn and recovery of excess payment of pay and allowances was to follow. The affidavits are of the date 22.05.1997. The order dated 17.01.1997 was challenged in O.A 121/97 by Sri Narendra Kumar and 18 others due from the language used in the order that policy decision was taken for pending final judgment in the case temporary status may be withdrawn prospectively and accordingly recovery of excess payment made. The applicant apprehended the follow up action. They filed earlier O.A which was dismissed. In these circumstances, the present O.A is not legally maintainable and is accordingly dismissed.

7. There will be no order as to costs.


Vice-Chairman.

/Anand/