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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 896 of 1992

Onkar Singh

...Applicant

Versus

Union of India and Ors.

...Respondents

CORAM:

Hon. Mr. Justice U.C. Srivastava, V.C

Hon. Mr. V.K. Seth, Member(A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant alleges that he has been working since 1986 as a daily waged Beldar, engaged by Senior Conservation Assistant under the Superintending Engineer, Archaeologist, Archaeological Survey of India, Agra Circle, Agra. The applicant is being paid daily wages @ 32.60p and has served at different archaeological monuments like Akbar stone, Sikandra sub circle, Agra Fort and is still continuing to serve as daily waged Beldar. The applicant was directed to produce the registration card of the employment exchange and educational qualification and age certificate for regularisation of his service. On 21st October, 1988, the applicant submitted the aforesaid documents. On 1.4.89 the seniority roll of the daily wagers ^{was} ~~was~~ circulated. On 20.6.89 by an oral order the applicant's services were terminated. Thereafter the applicant filed an application on 23.6.89 before the Superintending Engineer Archaeological Survey of India

that in and requested therein/the seniority list, seniority of the applicant has been shown incorrectly and moreover the number of days have also not been shown correctly. It was further requested therein that the applicant may be reinstated and the name of the applicant in the seniority list may be shown correctly. A compromise was entered between the respondent and the applicant and the applicant was reinstated but subsequently the respondent declined to absorb the applicant on regular basis.

2. On 22nd November, 1990, the Assistant Labour Commissioner, Central Lucknow referred the matter to the Government. On 25th September, 1991 the Government of India referred the matter of the dispute under Section 10A of the Industrial Dispute Act to the Industrial Tribunal Cum Labour Court, Kanpur. The applicant has submitted his written statement before the labour court praying that the respondents may be directed to permit the applicant to continue his services and further be directed to treat him as a regular Class IV employee and to pay his salary regularly with full and back wages.

3. The respondents have opposed the claim of the applicant and stated that it is absolutely wrong to allege that the applicant's services were terminated on 29.6.92, as a matter of fact the applicant did not come for the job from 29.6.92. It is submitted that the statement is correct that it was also referred for adjudication by the Govt. of India Ministry of Labour on 4.9.91. It has been stated that the applicant is a Daily waged casual Beldar engaged by the Conservation Assistants on various protected....p3

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Archaeological Monuments on purely manual jobs like carrying mud and stones cutting overgrown grass and vegetation etc for period less than 30 days at a time on Muster rolls on various types of jobs sanctioned by the Superintending Archaeologist, Archaeological Survey of India, Agra Circle on availability of funds sanctioned by Director General Archaeological Survey of India, New Delhi. He has been paid daily wages at the rate approved by Central Govt./U.P. Govt. from time to time. The applicant is neither a regular employee nor Archaeological Survey of India is an industry nor there are any sanctioned posts of Beldars nor any scale rates are fixed by Govt. of India nor there is any regular work in A.S.I Agra Circle.

4. The contentions on behalf of the applicant is that the services of the applicant ~~ix~~ has been illegally terminated by the respondents. It is incorrect to say that the applicant did not come for job from 29.6.92. It is stated that against the order of termination dated 20.6.89, the applicant filed a claim petition before the labour court and it was referred to Central Govt. Industrial Tribunal, Kanpur but this case has no concern at all with the controversy involved in the present case. It is stated that the case referred to in para under reply was filed by the President Archaeological Survey Majdoor Union, I.N.T.U.C and not by the applicant as alleged ^{in para} under reply. The applicant filed an application for early hearing of the case but the application for early hearing has been opposed by the respondents on the ground that the same matter is also pending in another Tribunal, therefore till the decision of the Tribunal, the case may not be decided. However, the Central Govt. Industrial Tribunal, Kanpur has directed

the respondents to produce the original record of the case filed in the Tribunal. It is further stated that the cases referred to para under reply are not similar to present case as they were filed on different footing and they have no concern at all with the present case. The grounds taken in the present petition are sustainable and maintainable in the eyes of law and the present petition is liable to be allowed and the petitioner is entitled to be regularised in service as he fulfilled all the required conditions inasmuch as he possessed requisite minimum qualification ^{and} in not regularising the services of the applicant ~~and~~ the action of the respondents is unjust.

5. Accordingly, the respondents are directed to reconsider the case of the applicant and allow him to continue in service and treat the applicant as a regular class IV employee and consider his case as ~~of~~ ^{of} the similarly placed persons. It is not necessary to take into question as ^{to whether} the department is an industry or part of it. With these directions the application stands disposed of finally.

Member(A)

Vice Chairman

Dated: 28.4.1993

(Uv)