

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 13TH DAY OF DECEMBER, 1996

Civil Misc. Contempt Petition No. 1131 of 1993

In

Original Application No. 896 of 1992

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR.S.DAS GUPTA, MEMBER(A)

Omkar Singh, s/o Sri Raj Bahadur Singh
r/o 43/423, Sikandra, Udyog Nagar
District Agra

Applicant

BY ADVOCATE SHRI A.K. GAUR

Versus

1. Shankar Nath, Supdg. Archeologist
Archeological Survey of India
22, Mall Road, Agra Circle, Agra
2. Smt. Achala Maulick,
Director General.
Archaeological Survey of India,
Janpath, new Delhi.

Respondents

BY ADVOCATE SHRI ASHOK MOHILEY

O R D E R (Reserved)

JUSTICE B.C. SAKSENA,V.C.

We have heard the learned counsels for the parties.

2. The applicant had earlier filed OA. No. 896/92 which was decided by a Division Bench on 28.4.93. In the operative part of the order the Division Bench directed the respondents" 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 similarly placed persons....." and the OA was disposed of.

3. The applicant has filed Annexure 3 copy of the order passed by the Supdt Archaeological Survey of India, Circle Agra dated 11.6.93. The said order has

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been passed after thoroughly reexamining the matter. Certain reasons have been indicated therein including the one that there are no sanctioned posts for the category of daily wages casual labour in Archaeological Survey of India and there is no regular nature of work for them nor regular vacancies in group 'D' posts are available and therefore the question of regularisation of daily wage casual worker to regular class IV employees does not arise. It has also been indicated that there are over 250 daily waged workers, ~~in case~~ ^{Bcl} in Archaeological Survey of India, Agra Circle, Agra ~~circle~~ ⁱⁿ over 400 Protected Historical and Ancient monuments scattered over 30 districts in Uttar Pradesh are engaged. ^{There are no Bcl} regular class IV(Group 'D') employees as there is no regular nature of work available for these category of casuals in A.S.I. It has further been indicated that the applicant is one of the juniormost daily waged casual worker and therefore the Supdtg Archaeologist has expressed his inability to continue the applicant as regular class IV employee.

4. For purposes of contempt petition the only question, which in our opinion, is required to be considered is what was the direction given in the decision rendered by the Tribunal and whether the directions have been complied with or not. The ^{true} ~~two~~ ^{Bcl} purport of the direction ~~that~~ in the operative part of the order passed in OA 896/92 to our mind is only that the respondents were directed to reconsider the case and upon such reconsideration if necessary to allow him to continue in service and to treat the applicant as a regular class IV employee.

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5. The learned counsel for the applicant, however, submitted that in the operative part the respondents were directed to "allow the applicant to continue in service and to treat the applicant as a regular class IV employee." In other words, learned counsel for the applicant wants the said words to be divorced from the direction to reconsider the case of the applicant which preceded the said words in the operative part of the order. We are unable to agree. The ~~two~~^{true} purport of the order is what has been indicated by us hereinabove and since the respondents have reconsidered the matter and have passed detailed order, dated 11.6.93 they should be taken to have complied with the direction. It is another matter that the reasons set out in the order dated 11.6.93 after reconsideration of the case of the applicant may in the perception of the applicant do not represent the factual position. The forum for canvassing the correctness of the order and ~~to~~ the conclusions recorded in the order passed by the Supdg Archaeologist in his order dated 11.6.93 is not through a contempt petition.

6. However, in view of the fact that the detailed counter affidavit, rejoinder affidavit, additional rejoinder, supplementary counter have been exchanged between the parties with a view to satisfy ourselves about the correctness of the stand disclosed by the respondents in their pleadings we ~~are~~^{had} permitted the learned counsels to make some detail^{arguments}. We have also been taken through the pleadings on record in detail.

7. The learned counsel for the respondents also showed us the original service cards of the applicant and two other casual labours viz Parvez Khan and of some other. The applicant had raised the plea in his pleadings that Parvez Khan was junior to the applicant and has been regularised. The service card of the applicant and Parvez Khan go to show that the said Parvez Khan on the basis of the number of working days cannot be said to be junior to the applicant. The seniority roll of daily waged casual workers in the A.S.I., Circle Agra as on 1.1.95 filed as SCA III by the respondents was also perused by us. Col. No.7 goes to show that it has been prepared on the basis of the total number of years with 240 days each year as the criteria although ~~shown~~ shown above the applicant in the said list have rendered 240 days of service in each year for more number of years than the applicant. We are therefore, satisfied that the stand of the respondents as detailed in their pleadings is clearly borne out. The applicant is the juniormost amongst the casual workers and since it has categorcially been averred in the counter affidavit and the pleadings of the respondents that no one with lesser number of days of working as casual worker has been regularised in the Agra circ~~le~~, we are not persuaded that there has been any arbitrariness or non application of mind by the relevant authority to reconsider the matter pursuant to the direction given in the order passed in the OA.

8. The contempt petition therefore, lacks merit and

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deserves to be dismissed and is accordingly dismissed.

The notices issued to the respondents are discharged.


MEMBER (A) :


VICE CHAIRMAN

Dated: December. 13th 1996

Uv/