

OPEN COURT
CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

ORIGINAL APPLICATION NO. 1220 OF 1999.

ALLAHABAD THIS THE 27TH DAY OF APRIL, 2007.

Hon'ble Mr. Justice Khem Karan, V.C

Munna Lal son of Raja Ram, resident of Village Meudhi, P.O. Sarnath, District Varanasi.

.....Petitioner

(By Advocate: Sri S.N Singh)

Versus.

1. Union of India through its Secretary, Ministry of Human Resources, New Delhi.
2. Superintending Archeologist, Archeological Survey Circle, Judges Court Road, Patna.
3. Director General, Archeological, Janpath, New Delhi.

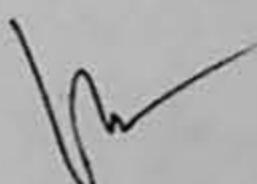
.....Respondents

(By Advocate: Sri S. Singh)

O R D E R

The applicant (Munna Lal) has prayed for quashing the order dated 21.8.1998 (Annexure 5) by which the Authority concerned refused to reengage or regularize him and is also praying for directing the respondents to regularize his services in the Department of Archeological Survey of India and to restrain them not to interfere in his working.

2. His case in brief is that he was engaged in 1986 on daily wages in the office of Conservation Assistant, Sub Office Sarnath and since then continued working as such. It is said that inspite of repeated representation, the respondents have not regularized his services. It is averred in para 4.9 of the O.A that he filed one writ petition No.16162 of 1998 before the Hon'ble High Court at Allahabad, which the Court disposed of directing the respondent NO.2, to consider his representation. The impugned order dated 21.8.1998 has been passed on the said representation. It is said that in view of judgment dated 16.2.1990 rendered



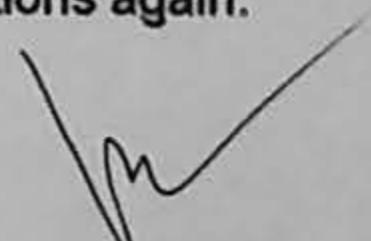
in Raj Kamal and others Vs. Union of India and others and subsequent notification dated 10.9.1993 (Annexure 6), the respondents ought to have conferred temporary status on the applicant and thereafter ought to have regularized his services. In para 4.12, it is said that even daily wagers engaged in 1993 to 1995 were regularized but the applicant engaged in 1986 ^{and} is serving the department for more than 10 years, has not been considered for regularization. Names of few persons who have since been regularized, have also been disclosed in para 4.16. It is said that in view of all these facts, the impugned order is not sustainable and deserves to be quashed and respondents be directed to regularize his services.

3. The respondents have filed reply saying that applicant worked for broken period as mentioned in the impugned order before 1993 but he never worked for 240 days in a calendar year. In regard to memo dated 10.9.1993, it is stated in para 7 that the same is not applicable to the applicant, as he did not complete 240 days during the span of six years what is to say if in a calendar year. It is also said in para 10 that applicant concealed the facts of having filed another writ petition No.42023 of 1998, which was dismissed as not maintainable because of alternative remedy but succeeded in getting orders in another writ petition. In para 6, it is stated that the matter is state one being 9 years old and no relief can be granted.

5. The applicant has filed rejoinder reiterating the grounds already taken in the O.A.

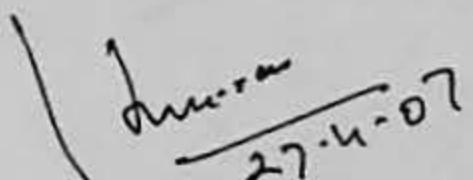
6. I have heard the parties counsel and have perused the entire material on record.

7. Learned counsel for the applicant has submitted that in identical case of Prem Hansh in O.A. No.527 of 1999, this Bench has already directed, the respondents to verify as to whether the applicant therein was entitled to the benefit of provision contained in office memorandum dated 10.9.1993. He says that the similar directions may be issued to the respondents in this O.A. Sri S. Singh has stated that in the O.A. in hand in compliance of the directions of the Hon'ble High Court, the respondents have passed the impugned order dated 21.8.1998 and so there appears to be no good reason for issuing similar directions again.



8. What surprising is that inspite of clear recital in the impugned order dated 21.8.1998, that the applicant was out of job since 1993, an impression has been given as if he is still continuing as such and it has nowhere been expressly averred in the O.A. that he ceased as daily wagers in 1993 or was wrongly or illegally disengaged in 1993. It appears that contention of the respondents that applicant is not working as Casual worker, after 1993 is correct and had it not been so, the applicant would have categorically averred so in the O.A. A person who is not in job since 1993 can hardly knock the door of the Court for any relief without explaining as to why he kept mum for all these years. In case, applicant was entitled to the benefit of memorandum dated 10.9.1993 he ought to have come within a reasonable time. The case of such ex-casual worker who is out of job, has become more weak after Constitution Bench decision of Apex Court in State of Karnataka Vs. Uma Devi (2006) 4 SCC 1. There is nothing on record to establish that he worked for 240 days, in a calendar year, so as to claim benefit of memo dated 10.9.1993.

9. The O.A. being devoid of merits, is dismissed. No order as to costs.


27-11-07

Vice-Chairman

Manish/-