

By circulation

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

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Review Application no. 71 of 2000

IN

original Application no. 16 of 1998.

this the 8th day of ^{2 May} April 2001.

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

Senior Supdt. of Post Offices, East Division, Varanasi
and another.

Applicants.

Versus.

Laxman Prasad, S/o Sri Pancham Lal, R/o Village Baniapur,
Post Lamahi via Sarnath, District Varanasi.

Respondent.

O R D E R

This review application has been moved by the respondents in O.A. no. 16 of 1998 for reviewing the order dated 8.9.2000 passed by this Tribunal in the said O.A. This Review Application is also accompanying by M.A. no. 6446 of 2000 for condoning the delay in filing the present Review Application on the ground that the delay in filing the same occurs due to official delay. The delay is condoned for the reasons mentioned in the M.A.

2. The O.A. no. 16/98 was filed by the respondent of the Review Application namely Laxman Prasad for issuing directions to the respondents to re-engage him either on the post of Cleaner or any other class IV post. The said O.A. was disposed of vide order dated 8.9.2000 with the directions to the respondent no2 of the O.A. to re-engage the applicant as and when any vacancy arise in future and no persons junior to the applicant should be recruited till the services of the applicable is available. The Revisionist

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thereafter filed a Writ petition bearing no. 46195 of 2000 before the Hon'ble High Court against the order passed by this Tribunal. The Writ petition was, however, dismissed vide order dated 24.10.2000.

3. The present Review application has been filed because the learned counsel for the revisionist had argued before the Hon'ble High Court regarding the correctness of the observation of this Tribunal in the order, in question, to the effect that "the applicant has been appointed against the clear vacancy". The Hon'ble High Court had suggested the revisionist to file a Review Application for this purpose. It is stated in the Review Application that the findings of this Tribunal in para 4 of the order that it is an admitted fact that the applicant has been engaged against clear vacancy is perverse finding because in the Counter affidavit filed by the revisionist, it was categorically denied the engagement of the applicant was against a clear vacancy. It was, on the other hand, pleaded that the engagement of the applicant was only a stop gap arrangement on daily rated basis.

4. I have perused the records of the original file. I find no force in the contention raised on behalf of the revisionist that the observation of this Tribunal to the effect that "it is an admitted fact that the applicant has been engaged against clear vacancy" is against the record. The relevant portion of para 4 of the order is as under :

"It is an admitted fact that the applicant has been engaged against clear vacancy but he was engaged merely as daily rated mazdoor on casual basis.---"

5. It appears that the revisionist has quoted the observations of this Tribunal in part only. If the sentence is read as a whole, it would be clear that the case of the revisionist has been correctly mentioned. In this

of the CA
context the averments made in para 4 is relevant to prove
the point, which is as under :

"That Sri R.P. Singh, Cleaner of Mail Motor Service, Varanasi, was terminated. Thus to cope with the work, one Sri Laxman Prasad was engaged as daily rated Mazdoor for the following days ----."

6. It is obvious that the applicant of O.A. no. 16/98 namely Laxman Prasad was engaged as daily rated mazdoor on the vacancy of Sri R.P. Singh, whose services have been terminated. Therefore, I do not find any error apparent on the face of the record in the order, in question.

7. The Review Application is devoid of merit and is accordingly dismissed under the Circulation Rules.

Ranjit Mehta

MEMBER (J)

GIRISH/-