

Rev. Appl. No.23/06
in
OA No.152/03

26.4.2007

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

Shri A. Gaur holding brief of Shri S. Srivastava appearing for Union of India and Shri M.D. Mishra appearing for Neeraj Kumar, on this review application.

Vide order dated 22.9.2004 passed in OA No.152/03 Neeraj Kumar and 5 other Vs. Union of India and 10 others, this Tribunal issued the following directions :-

"Now that applicants have already given up their claim for grant of temporary status or regularization. I do feel that till the posts are filled up on regular basis in accordance with law, the respondents shall allow the applicants to work on the same positions as they were working earlier temporarily till regular appointments are made. It is made clear that none of the applicants would be entitled to any back wages nor this will entitle them to claim any benefits at the time of regular appointment which are to be made by the respondents in accordance with law. Of course, if applicants apply for the said post they would also be considered, provided they fulfill the requirements stipulated by the department."

It appears that respondents in the OA challenged this order by way of filing Writ Petition No.10841/06 before the Hon'ble High Court at Allahabad and the Hon'ble High Court passed the following orders :-

"In view of the matter, we dismissed the petition with the liberty to file the review petition if so advised."

After this, Union of India has filed this review application contending inter-alia that there are no such posts nor there is any work so as to engage the applicants of the OA as casual worker.

Shri A. Gaur has submitted that the respondents have no work to offer to the applicants of the OA so the order dated 22.9.2004 deserves to be recalled and the OA be dismissed. Shri Mishra has submitted that the OA is highly time barred.

The review on the ground that there is no work, with the respondents in OA, does not appear to be possible, For considering that plea the Tribunal will have to enter into factual exercise. Moreover, after perusing the order of 2004, it transpires that the respondents themselves stated that they were going to make a regular selection and that was possible only if vacancies or work was there. These points can be agitated before higher forum, The review is rejected.

V.C.