

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
OA 1057 OF 1997

Present : Hon'ble Mr. D. Purakayastha, Judicial Member

Hon'ble Mr. G.S.Maingi, Administrative Member

Arjun Kumar,
S/o Sri J.D.Ram,
Daily Rated Skilled Worker,
Atomic Minerals Divn.
Deptt. of Atomic Energy,
Govt. of India.

VS

1. Union of India through the
Director/Chief Administrative &
Accounts Officer, Deptt. of Atomic Energy,
Atomic Minerals Division,
Govt. of India, Hyderabad 500 016
2. Regional Director, Deptt. of
Atomic Energy, Atomic Minerals Divn.
Eastern Region, 90 A & B N.M.Sarani,
Calcutta-700 026
3. Regional Director, Northern Region,
Atomic Minerals Division,
R.K.Puram, New Delhi

.... Respondents

For the applicant : Mr. B.P.Saha, Counsel

For the respondents : Mrs. K.Banerjee, Counsel

Heard on : 16.8.2000 : Order on : 21.8.2000

O R D E R

G.S.Maingi, A.M.:

This original application has been filed by Shri Arjun Kumar, a daily rated skilled worker in the office of Atomic Minerals Division, Deptt. of Atomic Energy, Calcutta, in which he has claimed the following reliefs :-

a) To issue necessary direction upon the respondents for immediate ^{re-engage}ment of the applicant in any suitable post keeping in view his past performance in the Deptt.

b) To pass any other order or orders, direction, directions which may be considered proper by the Tribunal for the ends of justice.

2. The applicant had earlier filed an original application bearing No. 81 of 90 which was decided on 24.1.94 by this Tribunal. It

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contained many inaccurate facts propounded by the applicant, who was duly represented by his counsel Mr. B.P.Saha and the same were not effectively controverted by the ld. counsel for the respondents Mrs. Uma Bhattacharya. In that OA it had been stated that as per contention of the applicant he was originally engaged in Calcutta for the period from 3.11.85 to 28.5.87 with breaks and thereafter he was transferred to northern regional office of the organisation at Hamirpur in Himachal Pradesh where he continued upto 20.8.89 and was disengaged w.e.f. 21.8.89. That order shows that the respondents' counsel opposed it and brought the correct position to the notice of the Tribunal. On the basis of the contention of the applicant, the Tribunal in para 5 of the order stated that it was found that he was a daily rated worker and he had been transferred from Calcutta to a far-flung place like Hamirpur in H.P. and it is from Hamirpur that he was disengged. This contention of the applicant was not opposed in that OA and the same contention has been made in the present OA also. Here the respondents have stated in their reply that he was engaged as a daily rated casual worker at Calcutta on various spells as and when required during the period from 28.7.86 to May 1987. This is at variance with the submission made before this Tribunal in OA 81/90 decided on 24.1.94 where it was stated that the applicant had claimed that he was engaged from 3.11.85 to 21.5.87 and thereafter he was transferred to Hamirpur in H.P. These are glaring discrepancies which could have been made out by the respondents and highlighted before the Tribunal. In the present reply, the respondents have stated that he was engaged as daily rated casual labourer in Hamirpur District (HP) under norther regional office of the respondents Deptt. at various spells during 28.11.87 to 20.8.89 as and when required basis and that he was disengaged from Hamirpur w.e.f. 21.8.89 as there was no requirement of his service. It has been highlighted by the respondents in para 3(iii) of the reply that the applicant on his own went to Hamirpur in Himachal Pradesh in November 1987 for employment there where he was employed in the norther regional office till his

service were disengaged from 21.8.89.

2. In the earlier OA filed by the applicant, it was ordered that he should be offered a suitable job on re-engagement within a period of six months. As there was no post available with the respondents excepting posts like Safaiwalla, Watch and Ward personnel, which are meant of SC/ST/OBCs etc., he could not be accommodated in those posts and on account of the inability of the respondents to give him engagement within the period of six months as directed by the Tribunal, the applicants through his counsel filed two Contempt petitions bearing Nos. CP(C) 73/95 and CP(C) 28/95. Both the contempt petitions were decided on 25.7.95 and 14.2.95 respectively. In CP(C) 73/95 decided on 25.7.95 the Tribunal had held that no case for contempt had been made out against the respondents but since the alleged contemnners were willing to consider the case of the petitioner for engagement in a suitable job as and when a vacancy would arise, the same may be considered. Lot of correspondence took place between the applicant, applicant's counsel and the respondents and ultimately, the respondents informed the counsel for the applicant, Mr. B.P.Saha as per letter dt. 26.10.94 as under :-

" Please refer to your letter No. nil dated 16.8.1994 regarding OA No. 81 of 90 and CAT order dated 24.1.94 in the case of Shri Arjun Kumar vs UOI & others.

2. In para 6 of the Tribunal's order dated 24.1.1994 the Atomic Minerals Division was directed to consider the case of Shri Arjun Kumar for his re-engagement within six months from the date of communication of the order, if a suitable job exists anywhere in the country for his re-engagement.

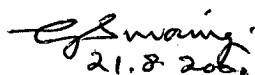
3. It is stated that Shri Arjun Kumar was engaged in smapling job and it is regretted that we have no smaply job at present anywhere in the Am units. As and when a vacancy arises his case will be considered in pursuant to the direction of the Hon'ble Tribunal first for re-engagement as a casual labourers and subsequently for a Group D post if any.

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Shri Arjun Kumar may please be informed accordingly."

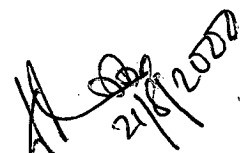
3. That closed the chapter as far as the applicant's prayer for re-engagement was concerned. When the matter was closed with the assurance given by the respondents that when a suitable vacancy would be available, they would consider the case of the applicant as per direction of the Tribunal, it is not understood as to why the same issue has been raked up in another application filed before this Tribunal. No notice should be taken of the present OA which is clearly barred by the principle of res judicata. The applicant was disengaged in the year 1989 and it is not disclosed in the present OA as to what he has been doing for all these 11 years.

4. Having considered the matter carefully and having understood that an attempt has been made by the applicant in order to take a chance to get a favourable order from this Tribunal by filing a frivolous application which is full of contradictions as highlighted above, we find no merit in this application apart from it being barred by the principle of res judicata. Accordingly, we reject this application. Keeping in view that it is not brought to our notice as to what work the applicant has been doing for the last 11 years, we refrain from awarding any cost in favour of the respondents although it is a fit case where cost should be awarded against the applicant.


21.8.2007

(G.S. MAINGI)

MEMBER(A)


21/8/2007

(D. PURAKAYASTHA)

MEMBER(J)