

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

CONTEMPT PETITION NUMBER 89 OF 2004

IN

ORIGINAL APPLICATION NUMBER 95 OF 1996

ALONG WITH

ORIGINAL APPLICATION NUMBER 301 OF 1997

LUCKNOW THIS THE 15TH DAY OF MARCH 2005

HON'BLE MR. S. C. CHAUBE, MEMBER (A)
HON'BLE MR. K. B. S. RAJAN, MEMBER (J)

Chhotey Lal aged about 43 years
Son of Shri Bhoodhar Lal
Resident of 538 Ka-III/456/85, Triveni Nagar,
Lucknow.

.....Applicant

(By Advocate : Dr. G.P. Tripathi)

V E R S U S

Dr. P. Pushpangadan,
Director, Material Botanical Research Institute (N.B.R.I.)
Rana Pratap Marg, Lucknow.

..... Respondent

(By Advocate : Shri A. K. Chaturvedi)

O R D E R

By Hon'ble Mr. S. C. Chaube, Member (A)

This contempt petition has been filed in pursuance to the directions given by this Tribunal dated 29.06.2004 in which the Tribunal directed the respondents to consider the applicant as and when there is requirement of work or there is an engagement of fresh recruit in preference to freshers and juniors. While issuing this direction, the Tribunal also referred to the settled legal position that the



Tribunal cannot give direction to create work or create a post for the applicant as there may not be any requirement as such.

2. In the counter affidavit filed by Dr. P. Pushpangaden the contemnor has referred to the order dated 04.11.2004 issued by Administrative Officer to the applicant in which they have clarified to the applicant which is as follows:

"आपके प्रत्यावेदन पत्र दिनांक 17/09/2004 के संदर्भ में आपको सूचित किया जाता है कि माननीय केन्द्रीय प्रशासनिक अधिकरण द्वारा ओ0ए0 सं0 95/96 एवं 301/97 में पारित आदेश दिनांक 29.06.2004 के अनुसार जब भी कार्य की आवश्यकता हो या नवीन भर्तियों की आपेक्षिता हो तो आपको कनिष्ठ एवं नये अम्यर्थियों से प्रधानता दी जायेगी, चूंकि रा0व0अ0सं0 अधिसूचना संख्या 3-2/122/2002-आरएडए दिनांक 03/09/2004 जोकि सीएसआईआर वेतनमोरी कर्मचारी की आमेलन योजना 1990/1995 के अन्तर्गत आमेलन के लिए पहचान किये गये अनियत मजदूरों से संबंधित है इसलिये आपको आवेदन पत्र उपलब्ध नहीं कराया जा सकता। अतः खेद है कि आपका प्रत्यावेदन स्वीकार नहीं किया जा सकता है।"

3. We have heard the learned counsel for the parties and perused the pleadings.

4. Learned counsel for the petitioner has pleaded that the applicant had completed 240 days of continuous services on 05.12.1988 and he got temporary status on 01.12.1994. In support of his contentions he has cited Annexure-5, which is an office memorandum dated 28.02.1995 on the subject of payment of DA, CCA and interim relief to the staff appointed in the Lotus project. We are unable to accept the contention of the learned counsel for the applicant that relevant order dated 28.02.1995 conferred temporary status on the applicant. Learned counsel for the applicant has further cited the decision given by this Tribunal in O.A. No.371/03 dated 16.12.2003. However, in our view, this decision does not render any help to him.



5. We have carefully perused the Annexure R-2 issued by the Administrative Officer dated 04.11.2004 and are of the view that no case for contempt is made out. Accordingly, the contempt petition is dismissed. Notice issued to the respondent is discharged. We however, allow the liberty to the applicant to seek legal remedy, if so advised, available to him under the law.



Member (J)



Member (A)

Shukla/-