

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**PATNA BENCH, PATNA.**

R.A. No. 06 of 2001
(Arising out of OA 569 of 1996)

Date of order : 10 July, 2008

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member[J]
Hon'ble Mr. Amit Kushari, Member (A)

Kamal Narayan Sharma & Ors.

Vs.

Union of India & Ors.

Counsel for the applicant : Shri Gautam Bose
Counsel for the respondents : Shri S.K. Tiwari

ORDER**Amit Kushari, M [A] :-**

The applicants had worked as casual labourer in the Department of Central Excise and Customs for varying periods and four of the applicants [out of five] were engaged before 1.10.1993 when the special scheme for regularization of casual labourers came into effect from the Department of Personnel and Training. The applicants claim that they have worked continuously for 206 days without specifying the exact dates on which they completed 206 days. The review application is regarding the decision of the Tribunal



dated 17.10.2000 in O.A. No. 569 of 2000 and also a subsequent review application of 2004.

2. The learned counsel for the applicant Shri Gautam Bose points out that in the O.A. it was categorically pointed out that an employee of the same department by the name of Shri Dharmendra Kumar Azad who was a casual labour had been disengaged and he had filed O.A. No. 358 of 1995 and the Tribunal had allowed this O.A. The matter went to the High Court and also to the Apex Court and this order of the Tribunal was upheld. The present applicants say that they were in an identical situation like Shri Dharmendra Kumar Azad, therefore, they should have got the benefit also. The Central Administrative Tribunal, Patna while disposing of O.A. No. 569 of 1996 in their order dated 17.10.2000 could not find any similarity between their case and the case of Shri Dharmendra Kumar Azad and ultimately the Tribunal had rejected the claim of the applicants. A review application that was filed against this decision was also disposed of by the Central Administrative Tribunal, Patna on 28.4.2004 and the review application was rejected on the ground that the Central Administrative Tribunal did not have powers to review such orders. Aggrieved by the rejection of the review

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application, the applicants had moved the Hon'ble High Court in CWJC No. 8854 of 2004 and this was disposed of on 9.11.2006 by the Hon'ble High Court. The Hon'ble High Court while disposing of this writ petition has given the following remarks :-

"From the orders passed by the Tribunal, it appears that there is no finding as to whether the facts of O.A. Nos. 358 of 1995 and 59 of 1996 were identical to those of the present petitioners. It further appears that the Tribunal while disposing of the review application erred in holding that the review application is in nature of appeal and this court sitting in review jurisdiction does not have power to set aside the judgments passed by the Division Bench earlier.

Learned counsel for the respondents, however, tried to demonstrate before the court that the case at hand and that of O.A. No.s. 358 of 1995 and 59 of 1996 are not identical, and, therefore, no prejudice would be caused to the present petitioners.

It is manifest from the materials on record that after passing of the final order by the Tribunal the applicants applied for review of earlier order making out a case of review; as such, the review application could not be termed as an appeal filed by the applicants.

By virtue of the provisions laid down under section 22[3] [f] of the Central Administrative Tribunal Act the Tribunal has jurisdiction to review its order. At the same time, in the Rules

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framed to govern the proceedings of the Tribunal in the Central Administrative Tribunal [Procedure] Rules, 1987 [hereinafter to be referred to as "Rules"] identical provision has been provided in Rule 17 of the Rules empowering the Tribunal to review its order.

In view of the statutory provisions, as referred to above, the Tribunal has wholly erred in holding that it does not have powers to set aside its earlier judgments and allow the relief claimed by the applicants; as such, the review application was well maintainable and is required to be heard afresh.

In the result, the order passed by the Tribunal refusing to review its earlier order is set aside and the matter is remitted back to it to rehear the review application and dispose of the same after hearing the parties in accordance with law."

3. The Hon'ble High Court has come to the conclusion that there was no clear finding in the order of the Central Administrative Tribunal as to whether the facts of the case of Dharmendra Kumar Azad vs. Union of India & Ors [O.A. No. 358 of 1995] are identical to the present case or not. Now the review application has come before this Tribunal for fresh adjudication as a result of the comments/directions of the Hon'ble High Court.

4. We have carefully considered the facts of this case. We do feel that the cases of Dharmendra Kumar Azad and the present

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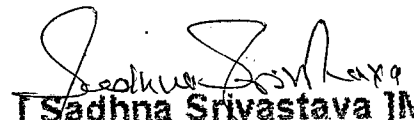
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applicants should be compared with greater details by the respondents and an order should be passed whether this case is exactly identical to the case of Dharmendra Kumar Azad or not. If the cases are identical in nature and the facts are identical and similar than the present applicants may also get the benefit which Dharmendra Kumar Azad has obtained.

5. We, accordingly, direct the Respondent No. 2, the Commissioner Central Excise and Customs, Patna to complete this exercise by issuing a ~~special~~ speaking order within three months of receipt of this order.

6. With these directions, this RA is disposed of. No costs.


[Amit Kushari] M [A]


[Sadhna Srivastava] M [J]

mps.