

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO.298 of 2000

Dated this the 10th day of September, 2001

Coram: Hon'ble Mr.B.N.Bahadur - Member (A)
Hon'ble Mr.Kuldip Singh - Member (J)

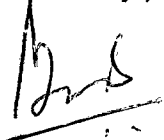
1. Patta Rameya,
residing at B.S.Patil Chawl,
R.No.1283, Aggarwadi, Mankhurd.
2. Shri Ramesh Bala Gawade,
residing at Vardakar Chawl,
Adarsh Nagar, Jambli Pada,
Kalina, Santacruz, Mumbai.
3. Shri Bhaskar Sadanand Gouda,
residing at Ramabai Ambedkar Nagar,
R.No.574, E.E.Highway Road,
Ghatkopar (East), Mumbai.
4. Shri Vishwas Bapu Kamble,
residing at Gajanan Colony Chawl No.24,
Room No.4, Govandi, Mumbai.
5. Shri Chandrakant Sahadeo Morye,
residing at 106/736, M.H.B. Colony,
Jogeshwari (East), Mumbai.
6. Shri Ashok Sudam More,
residing at B.D.D. Chawl No.98,
R.No.63, Worli, Mumbai.
(By Advocate Shri B.Ranganathan)

...Applicant

VERSUS

1. Union of India
through the Chairman & Secretary,
Department of Atomic Energy,
South Block, New Delhi.
2. The Head, Personnel Division,
Bhabha Atomic Research Centre
Government of India,
Central Complex, Trombay, Mumbai.
3. The Head Civil Engineering Division,
Bhabha Atomic Research Centre,
North Site, Trombay, Mumbai.
4. The Assistant Personnel Officer,
Bhabha Atomic Research Centre,
Personnel Division,
Recruitment Section, Central Complex,
Trombay, Mumbai.

...Respondents



ORAL ORDER

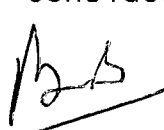
Per: Hon'ble Mr. B.N. Bahadur - Member (A) -

As recorded vide Rojnama dated 5.2.2001, the matter was to be argued first on the point of res judicata. This was clear from the perusal of the basic facts in the case. We have therefore heard both the learned counsel on the point of res judicata/constructive res judicata.

2. From a careful consideration of the judgment of this Tribunal dated 2.2.2000 (copy available on pages 26 and 36 of Paper Book) and the relevant papers and the arguments made by the learned counsel, we are clearly convinced that the case is hit by the principles of res judicata/constructive res judicata, and the applicant cannot come up with the grievance in a fresh OA. We record the reasons for this conclusion. It is seen that in the aforesaid judgment of 2.2.2001 made in a batch of OAs (then separately made by the pre-seof applicants) it had been decided as under:-

"17 We agree to the proposition that Temporary status granting of it does not depend on the availability of the vacancy or seniority, as employee has only to satisfy the condition regarding service for a number of days as held in (1995) 31 ATC 534 Mahindra Singh and others Vs. Union of India and others but the said question does not arise in the present case looking to the reliefs claimed.

18. In the result it is made clear that the applicants are at liberty to comply with the order of 19th January 1996, failure to comply with the same shall not be a bar for their consideration in the vacancies to arise in future



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and they shall be considered as per their turn ignoring the persons who have accepted offer of appointment as Helper 'A' (CM). The OAs are disposed of with the above observations. No order as to costs."

In this connection we also reproduce the first paragraph of the aforesaid judgment to enable us to show with what prayer applicants came up with their grievance -

" These are the applications under Section 19 of the Administrative Tribunals Act, 1985 to quash and set aside the impugned order dated 19.1.1996 (Annexure-A-1) as they being illegal and bad in law, offering appointments to the applicants in the post of Helper A (CM) at the initial pay of Rs.750/- in the pay scale of Rs.750-12-870-14-940 with a direction to the respondents to regularise the applicants in the post for which they have been interviewed and specially in the posts which are available with the respondents in the appropriate trade and allow the applicants to continue in the Highly Skilled Labourers post on the emoluments which they are drawing at present."

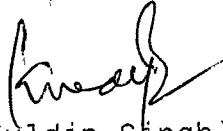
2. It has been argued that the order offering appointments to applicant in the post of Helper A (CM) is bad in law. Also a direction was sought to the respondents to regularise the applicants in the post for which they have been interviewed and especially in the posts which are available by the respondents in the appropriate trade. In the present OA also, essentially what is asked for is the same although it is proceeded by a prayer for producing/contesting seniority list etc. Even assuming that certain connected prayers were not made in the earlier OA, this will also be hit by the principles of res judicata.

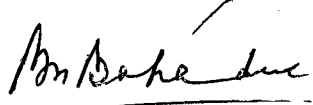
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H. B.

3. In fact it was one of the argument of learned counsel made by him today that the directions that already have been given by the Tribunal in its judgment in its previous OA/OAs have not been implemented. This begs the question. If this be, indeed, the position, then the applicants cannot come up in a fresh OA In any case their remedy may lie in seeking execution of the order or in a CP. is not the frunction in the present OA to go into that aspect.

5. Suffice it to say that the OA is hit by the principles of res judicata/constructive res judicata and therefore cannot be admitted or considered. The OA is therefore dismissed at the stage of admission. No order as to costs.


(Kuldip Singh)
Member (J)


(B.N. Bahadur)
Member (A)

mb/