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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY

Review Petition No.72/93
in O.A. No.989/92

Shri Dilip Mahaveer Chand
and 28 others

..

Applicants

vs

Union of India and Others

..

Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman
Hon'ble Shri M.Y.Priolkar, Member (A)


Tribunal's Order
(Per: Shri M.Y.Priolkar, Member(A))


Dated: 23-11-93

This Review Petition has been filed by the applicant in O.A. No.989/92 seeking a review of our order dated 16-4-1993 by which we had rejected the prayer for interim relief made by the applicant in his M.P.No.157/93 in that O.A. We had inter alia observed in that order that this was an instance of loaned employees being sent back to the original place and that the reply filed by the respondents showed that there was absenteeism on the part of the applicants and since a time bound programme was to be executed, the applicants were being sent back. In the circumstances, we saw no reason to intervene with the order in respect of which interim relief was being sought.

2. Our above order was passed after hearing the learned counsel on both sides. No error of fact or of law in that order which is apparent from the record has been brought out in the review petition. Elaborate arguments have, however, been given and additional documents filed to contend that the reply of the respondents which was cited in our order does not reflect the correct factual position. We are not satisfied that these arguments

could not have been made, with reasonable diligence, at the time when our order was pronounced on 16-4-1993 after hearing extensively both the parties. We do not see any sufficient reason to warrant a review of our order dated 16-4-93. The review petition is rejected.


(M.Y. Priolkar)
Member(A)


(M.S. Deshpande)
Vice-Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 989 OF 1992.

Date of Decision: 13.07.1999.

Dilip Mahaveer Chand & 28 Others,

Applicants.

Shri D. V. Gangal,

Advocate for
Applicant.

Versus

Union Of India & Others,

Respondent(s)

Shri S. C. Dhavan,


Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri. D. S. Baweja, Member (A).

- (1) To be referred to the Reporter or not? *wo*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *wo*


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 989 OF 1992.

Dated this Tuesday, the 13th day of July, 1999.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri D. S. Baweja, Member (A).

1. Dillip Mahaveer Chand.
2. Ramesh Narayan.
3. Ananda Shankar.
4. Sanjay Waman.
5. Jagadish Bhagirath.
6. Prakash Purushottam.
7. Vasant Bhikaji.
8. Mahadeo Namdeo.
9. Ganpat Bhagaji.
10. Jose T.A.
11. Deoram Mhasu.
12. Ashok Tukaram.
13. Ramdas Pandoo.
14. Modil Sarnam.
15. Ramlakhan Jagdeo.
16. Hiranman Dhondoo.
17. Sitaram Meghal.

18. Shivaji Laxman.
19. Jail Ahamed Ab. Latif.
20. Ashok Narayan.
21. Mohd. Yanus K. Ayub.
22. Pandit Damu.
23. Ambrose Devid.
24. Rajgopal Parmeshwar.
25. Ananda Pandarinath.
26. Sayed Sabbir.s
27. Rangnath Hari.
28. Ismial Mehabob.

29. Raghuveer Baiju.
All the applicants are working as skilled
artisans under the Assistant Bridge Engineer,
Manmad, working site at Jhansi.

... Applicants.

Address : C/o. Dilip Mahavir Chand,
Officers' Colony,
A/96, Railway Out House,
At & Post Manmad,

Dist. Nasik.

(By Advocate Shri D. V. Gangal)

VERSUS

1. The Union Of India through
The Secretary Manager of
Railways, Railway Board,
New Delhi.
2. The General Manager,
Central Railway,
Bombay V.T.

3. The Divisional Railway Manager,
Central Railway, Bhusawal.
Central Railway, Bhusawal.
 4. The Chief Personnel Officer,
Bombay V.T.
 5. The Chief Bridge Engineer,
Central Railway,
Bombay V.T.
 6. The Chief Engineer Bridges Construction,
Central Railway,
Bombay V.T.
 7. The Chief Workshop Manager,
Bridges Workshop,
Central Railway,
Manmad.
 8. Shri S. K. Srivastava,
The Sr. Bridge Inspector (Constn.),
Central Railway, Jhansi.
- ... Respondents.

(By Advocate Shri S.C. Dhawan.)..

ORDER (ORAL)

PER : SHRI JUSTICE R. G. VAIDYANATHA, VICE-CHAIRMAN.

This is an application filed under section 19 of the Administrative Tribunals Act. The respondents have filed reply. We have heard the Learned Counsel appearing on both sides. The applicants were originally working as casual labourers as Skilled Artisans in Bridge Construction Organisation. Subsequently, the applicants were screened for regularisation as per the decasualization scheme of the Railways. It appears that the applicants came to be regularised as Gangman in 1989. It appears, during the pendency of the O.A., on the representation of the applicants, they have now been regularised as Khallasi. The applicants' grievance is that they should have been

regularised as Skilled Artisans and not either as Gangman or as Khallasi. Therefore, they have filed the present application for certain directions against the respondents.

2. The respondents have filed reply opposing the application. They have stated that the applicants were screened and were regularised as Gangman. That the applicants are not entitled to the post of Skilled Artisans. The applicants are not entitled to any of the prayers made in the O.A.

3. After hearing both the sides we find that the applicants were casual labourers and were subsequently regularised as Gangman in 1989. The present O.A. is filed in 1992. That is why the applicants have filed M.P. No. 822/92 for condonation of delay.

It is also an admitted fact that the applicants have accepted their regularisation and joined the post as Gangman and subsequently they have accepted the post of Khallasi. It may also be noted that the applicants were given change of regularisation from Gangman to Khallasi on their own request and representations. But the applicants' case is that they were forced to accept the regularisation offered by the respondents but there is no material on record to substantiate the allegation. If the applicants were not interested for the post of Gangman, they could have declined the offer of the respondents. Since the applicants have already accepted the post of Gangman



and subsequently the post of Khallasi, the present O.A. seeking certain directions for absorption as Skilled Artisans cannot be accepted. The O.A. is also barred by delay and laches. At this stage the Learned Counsel for the applicants submits that the applicants' prayer for change of cadre or change of post may be considered by the respondents and suitable directions may be given. The Learned Counsel for the respondents fairly submitted that if there are vacancies and if the applicants make representations, they will be considered as per rules subject to their seniority, suitability, qualifications, etc. In a similar matter in O.A. No. 1045/92 we had passed an order dated 19.01.1999 where also we have observed that the applicants may make a request for representation to the administration for change of department and it is for the department to consider the request as per rules.

The applicants have accepted the order of regularisation and have been working in the post for the last 8 to 9 years ^{and hence} we are not inclined to interfere with the action of the department.

4. In the result, the O.A. is disposed of subject to the observations made above about giving liberty to the applicants to make representations to the administration for change of department/cadre and it is for the administration to consider such a representation in accordance with law.

(D.S. BAWEJA)

MEMBER(A)

(R. G. VAIDYANATHA)

VICE-CHAIRMAN.

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In the result, the O.A. is disposed of subject to the observations made above about giving liberty to the applicants to make representations to the administrator for change of department/cadre and it is for the administration to consider such a representation in accordance with law.

(R. G. VAIDYANATHA)

VICE-CHAIRMAN.

(D.S. BAWEJA)

MEMBER(A)