

(26)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 1009/96.

Date of Decision : 19-08-96.

BETWEEN

1. M. Lakshminarayana
2. A. Ramu
3. Md. Ramjan Ali
4. B. Bhaskar Rao
5. S. Gopi
6. K. Rama Rao
7. K. akshmanamurthy
8. T. Suribabu
9. V. Satyanarayana
10. P. N. Srinivasa Rao
11. M. Maheswar Rao

.. Applicants.

AND

1. The Union of India, Rep. by its Secretary, Ministry of Defence, New Delhi.
2. The Flag Officer, Commanding-in-Chief, Eastern Naval Command, Visakhapatnam.
3. The Admiral Superintendent, Naval Dock Yard, Visakhapatnam.
4. The Commander, Officer-in-Charge, Naval Base, Ship Building Centre, Visakhapatnam.

.. Respondents.

Counsel for the Applicants : Mr. P.B. Vijaya Kumar

Counsel for the Respondents : Mr.

CORAM:

THE HON'BLE SHRI JUSTICE M.G. CHAUDHARI : VICE CHAIRMAN

THE HON'BLE SHRI H. RAJENDERA PRASAD : MEMBER (ADMN.)

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ORDER

Oral Order (Per Hon'ble Mr Justice M.G. Chaudhari, Vice Chairman)

Mr. P.B. Vijaya Kumar, learned counsel for the applicants. Heard.

2. Applicants 1 to 9 were parties in OA.No. 19/93 decided by this Tribunal on 08-02-1994, applicant No.10 was a party to OA.No.159/93 decided on 08-02-94 and applicant No.11 was the applicant in OA.No.772/93 also decided on 08-02-94.

Under the orders passed in the said OAs the respondents were directed to continue and engage the applicants so long there was work in preference to juniors and freshers and their names were directed to be entered in a live casual labour register, may be in an unapproved list as different from approved list meant for those engaged through employment exchange and however that the case of the applicants for grant of temporary status and for regularisation against available Group 'D' posts will be considered keeping in view their seniority and strictly in accordance with the extant scheme/instructions. By the instant OA the applicants seek a direction to the respondents to absorb them in the available or future vacancies by taking into consideration their casual service by re-engaging them together with consequential and attendant benefits.

3. But the relief as prayed is virtually same as was granted to the applicants earlier. We are at loss to understand to on as/what cause of action the present application has been filed. The subject mentioned in the OA is inaction on the part of the respondents in not engaging and considering the applicants against regular vacancies despite the specific direction of the Court on the ground that Naval Dock Yard and Eastern Naval Command are not parties to the earlier OAs. This should have been more appropriately a grievance by way of contempt and not by way of separate OA. However, we do not propose to prolong the life of this litigation on technical grounds.

4. There is however no communication or order issued by the respondents declining to follow the earlier orders on the ground that Naval Dock Yard and Eastern Naval Command are not parties to the earlier OAs. That is a ground projected by the applicants possibly trying to get some order by filing this OA.

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5. The learned counsel for the applicant drew our attention to the letter of Additional Project Director, Ship Building Centre, Naval Base, Visakhapatnam as written on 11-06-96 to the Admiral Superintendent, Naval Dockyard, Visakhapatnam (Annexure-V) to recruit and position 30 unskilled labourers for Northyard by 01-08-96. It is submitted by the learned counsel for the applicants that since the applicants have not been purported to be recruited against the requirement of the 30 unskilled labourers the directions in the original order are not being followed and the applicants should be so recruited. To say the least mere communication of Annexure-V cannot confer any cause of action upon the applicants. It is only because of our anxiety ^{to} impress upon the respondents to comply with the original directions when they have not carried the orders in appeal that we have persuaded ourselves ^{to} deal with this matter by this order.

6. In paragraph - 4 (c) of the OA it has been stated that the issue of inclusion of the casual labourers in the labour pool was raised by the staff side on behalf of the present applicants. However where it has been raised has not been stated. It is only the argument of the learned counsel for the applicants that the reference is to the JCM IV. Be that as it may, the relevant portion of the minutes quoted shows that the issue relating to the applicants 1 to 9 was specifically raised with a request for their engagement on daily wages and to be brought under the purview of the Command Labour Pool as they are jobless and it has been stated in that connection that as clarified at the preliminary meetings held on 10-07-95, The SBC is a separate establishment directly administered by ATP project, Headquarters,

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for allotment of funds, contingent expenditure etc. and since budget allotment for SBC is also different, the daily wage labourers working in SBC cannot be brought under the purview of Labour Pool. It has further been stated that the respondents in OA in question were Project Director, SBC and Ministry of Defence only and therefore the headquarters was not concerned with their employment or otherwise. The question of placing the applicants under the purview of the Command Labour Pool is different than the calling of 30 unskilled labourers from the Naval Dockyard by order dated 11-06-96. It appears that in the earlier OAs the respondent No.1 was described as "The Commander, Officer in-charge, Naval Base, Ship Building Centre, Visakhapatnam". The description on the face does not appear to be accurate. However the Ship Building Centre, Naval Base, Visakhapatnam was very much respondent. The communication dated 11-06-96 also emanates from Ship Building Centre, Naval Base, the applicants were casual labourers cannot be expected to know the authorities and extent of powers of different units at the Naval Base. Since they had been engaged in Ship Building Centre they had chosen to make it a party in the manner described. That circumstance should not be weighed against the applicants who are layman. The sum and substance of the whole situation is that where as the Tribunal desired the respondents to carry the direction given in the earlier orders the applicants as it appears are not being included in the 30 unskilled labourers being recruited immediately in the Ship Building Centre. It is therefore clear that these persons would be recruited who will be other than the applicants. We are of the view that having regard to the spirit behind the previous

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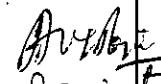
orders and as it is clear that there is a need for 30 unskilled labourers to be engaged immediately in the project under the Ship Building Centre vide Annexure-V dated 11-06-96, the respondents ought to have considered them for engagement in the project for whatever the work ^{is} would be available. We are therefore feel that the respondents ought to make an endeavour in that direction. We appreciate the difficulties of the respondents. Even so we hope they will be able to try as far as possible if the 30 appointments have not so far been made and subject to administrative exigencies to consider the cases of the applicants sympathetically. Beyond making these suggestions to the respondents it is however not possible to make any direction as such. We hope that the respondents will give due consideration to the matter. With these observations the OA is disposed of. No order as to costs.


(H. RAJENDRA PRASAD)
MEMBER (ADMN.)


(M.G. CHAUDHARI)
VICE CHAIRMAN

Dated : The 19th August 1996.
(Dictated in Open Court)

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Deputy Registrar (DCC)

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O.A. 1009/96.

To

1. The Secretary, Ministry of Defence,
Union of India, New Delhi.
2. The Flag Officer,
Commanding-in-chief,
Eastern Naval Command,
Visakhapatnam.
3. The Admiral Superintendent,
Naval Dockyard, Visakhapatnam.
4. The Commander, Officer-in-Charge,
Naval Base, Ship Building Centre,
Visakhapatnam.
5. One copy to Mr.P.B.Wijayakumar, Advocate, CAT.Hyd.
6. One copy to Mr. .. Addl.CGSC.CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

pvm

8/24/96

I COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 19-8 -1996

~~ORDER~~ / JUDGMENT

M.A./R.A./C.A. No.

in

O.A.No. 1009/96.

T.A.No.

(w.p.

Admitted and Interim Directions

Issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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केन्द्रीय प्रशासनिक
Central Administra
ट्रेजरी / DGS
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हैदराबाद
HYDERABAD