

57

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.1024/99.

Date of Order : 27 -6-2000

Between :

S. Vijaya Bhaskar

...

Applicant

A n d

1. The Union of India,
Ministry of Urban Affairs &
Employment, Department of Central
Public Works Department, Nirman
Bhawan, New Delhi- 110 011., Rep.by
its Secretary.
2. The Director General of Works,
Central Public Works Department,
Nirman Bhawan, New Delhi- 110 011.
3. The Chief Engineer (South Zone-II)
Central P.W.D. Nirman Bhawan Building,
Sultan Bazar, Hyderabad- 500 095.
4. The Superintending Engineer (Coord.)
Central P.W.D., Chennai - 600 090.
5. The Superintending Engineer,
Hyderabad Central Circle-I,
Central P.W.D., Nirman Bhawan Building,
Sultan Bazar, Hyderabad- 500 095.
6. ~~The Executive Engineer,~~
Hyderabad Central Division No.III,
Central P.W.D., Nirman Bhawan Building,
Ground Floor, Sultan Bazar, Hyderabad-95. ... Respondents.

Counsel for the Applicant : Mr. Surendra Desai

Counsel for the Respondents : ~~Mr.~~ Mr. V. Vinod Kumar, ACGSC.

CORAM :

THE HON'BLE MR. JUSTICE D. H. NASIR, VICE-CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN, MEMBER (ADMN.)

Contd... 2.

: 2 :

O R D E R.Justice D.H. Nasir, VC :

1. The applicant worked as Beldar from 1.6.88 to September, 93 on Work order basis and is still continuing under a contract. The second respondent issued proceedings No.34/17/93-EC.X dated 18.8.93 directing the third respondent to furnish the service particulars of the employees who were engaged on Work order/Hand receipt/Contract basis and the particulars of those who had completed 240 days of service in two consecutive years. Since the service particulars were not received by the applicant, he filed O.A.No.637/96 in which the Tribunal was pleased to direct the respondents 2 to 5 to send the service particulars of the applicant. Since this direction was not complied the applicant had to make three representations respectively on 5.2.98, 2.4.98 and 10.7.98. Eventually the applicant had to file another O.A. No.1134/98 before this Tribunal which was disposed of by an order dated 10.12.98 directing the respondents to consider the case of the applicant for regularisation. The respondents issued proceeding No.7(14)99/HCD.III/1148 dated 7.6.99 rejecting the applicant's pleas. This O.A. is therefore filed by the applicant praying the Tribunal to quash and set aside the impugned proceedings No.7(14)99/HCD.III/1148 dated 7.6.99 of the sixth respondent as being illegal and arbitrary and to issue a direction to the respondents 1 and 2 to regularise his services in the post of Beldar or in any other Group 'D' post with all consequential benefits.
2. By the impugned order dated 7.6.99 the sixth respondent informed the applicant that his case for regularisation of his services as Beldar in the C.P.W.D. had been considered by the competent authority and he was found not fit for regularisation.

3. Before arriving at any conclusion with regard to the validity of the impugned order, it is necessary to take into consideration ~~the~~ pleas taken by the applicant in the previous proceedings and the directions issued by the Tribunal in the respective proceedings so as to find out whether the O.A. does not suffer from the vice of the principle of resjudicata. In O.A.^{No.}1134/98 the same facts as stated in the opening paragraph of this order were considered by the Bench. It is also considered in the judgment of ~~the~~ case that the applicant had filed O.A.No. 637/96 seeking a direction to the respondents to regularise his services and the Bench was pleased to give a direction that if the name of the applicant was not forwarded in pursuance of the letter dated 18.8.93, the same should be forwarded to the concerned authority. The Bench gave a specific direction to the respondent No.2 that the case of the applicant had to be considered and decided by taking a lenient view within thirty days from the date of receipt of the copy of the ~~said~~ order and the status quo was directed to be maintained in O.A.No.637/96. A direction was also given that if there was work for the post of Beldar/Office Attendant the applicant should be preferred to the freshers.

: 4 :

4. By letter dated 17.2.99 respondent No.4 informed the Director General (W), C.P.W.D., New Delhi (respondent No.2) that there were other similar cases also and therefore a uniform policy would have to be adopted in such cases since the possibility of getting similar decision from CAT in respect of other workers in the event of their going to CAT could not be ruled out. It is further stated in the said communication that the particulars in respect of other workers were being obtained and would be submitted separately.

5. It is also pertinent to note that by his letter dated 3.11.1998 (Annexure-11 page 24 to OA) the applicant addressed a representation to the respondent No.5 in which he inter alia stated that he ^{the} (applicant) was working in the office of the Executive Engineer, Hyderabad Central Division No.III, Central P.W.D., Hyderabad as Beldar from 1.6.88 to 29.10.92 on Work order basis and from 30.10.92 on contract basis. The applicant further stated that he filed OA No.637/96 before this Tribunal for regularisation of his services as Beldar or any other Group 'D' post i.e. Peon/Chowkidar, and that the same was disposed of on 20.8.97 with a direction to the respondents therein to send his particulars to the Director General of Works, New Delhi to consider his case and that the Bench was further pleased to observe that " if there is work for the Beldar/Office Attendant, the applicant has to be preferred to the freshers".

6. From what is ^{stated} above it becomes quite clear that the applicant has completely exhausted the remedies available to him by repeatedly making representations to the Department as well as by filing OAs before this Tribunal and therefore, no further direction need be issued by the Tribunal in this O.A. as the issue has already been decided earlier. According to the

(w)

: 5 :

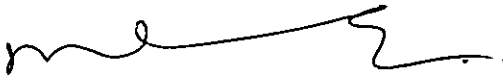
applicant, the directions issued by this Tribunal ⁱⁿ ~~is~~ the aforesaid OAs are not respected by the Department and that the respondents were unjustifiably depriving him of his right of being regularised in accordance with the directions of this Tribunal. In our opinion, approaching the Tribunal again and again is not the remedy. The remedy lies elsewhere. We need not advise the applicant where such remedy lies. If the present O.A. is entertained by us, by giving any direction to the respondents, the sanctity of the order of the Tribunal given earlier and the authority of the Tribunal would be greatly undermined and a situation would so emerge ^{as if} ~~that~~ the Tribunal is bereft of power to ensure implementation of its decision.


7. The respondents in their reply statement have also expressed their apprehensions in more or less the same terms. It is alleged by the respondents that the applicant made a blatant attempt of gaining advantage by making false representations that he was being continued as Beldar and his services were being used as Typist. The respondents point out that the applicant was not at all being continued either as Beldar or in any other capacity as on date and he held no status in the respondents' office. The service particulars of the applicant had already been sent vide letter dated 22.10.1997 as stated in para-4 of the reply statement. It is also pointed out by the respondents in para-4 that there had been no violation of the directions of the order dated 28.8.97 in OA No.637/96.


8. With the above situation in view, we firmly believe that the present O.A. is not maintainable in view of the fact that similar relief based on similar facts had been considered ^{and decided} ~~by~~ by this Tribunal in the proceedings repeatedly taken by the applicant before this Tribunal.

: 6 :

9. For the reasons as stated above, the O.A. is dismissed as not maintainable. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)


(D.H. NASIR)
VICE-CHAIRMAN.

Dated the 27th day of June, 2000. 

DJ/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

COPY TO

1. HDHND ✓
2. HRRN (ADMN.) MEMBER
3. HBSOP (JUDL.) MEMBER
4. D.R. (ADMN.) ✓
5. SPARE ✓
6. ADVOCATE
7. STANDING COUNSEL

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE-CHAIRMAN ✓

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN.) ✓

THE HON'BLE MR. B.S. JAI PARAMESHWAR
MEMBER (JUDL.) ✓

DATE OF ORDER 27/6/2000

MA/RA/CP. NO.

IN

CA. NO. 1024/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
घोषण / DESPATCH

5 JUL 2000

हैदराबाद न्यायापीठ
HYDERABAD BENCH