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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

CA no. 228/93 : Date of order 25.10.94

Babulal Sharma : Applicant

V/s

Union of India & Others : Respondents

Mr. Chandra Prakash : Counsel for the applicant

None present for the respondents.

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Hon'ble Mr. Gopal Krishna, Member (Judicial)

Hon'ble Mr. O.P. Sharma, Member (Administrative)

PER HON'BLE MR. O.P. SHARMA, MEMBER (ADMINISTRATIVE)

Shri Babulal Sharma in this application u/s 19 of the Administrative Tribunals Act, 1985, has prayed that the termination of the applicant may be declared as illegal and null & void ab initio and that the respondents may be directed to reinstate the applicant with back wages and consequential benefits. He has further prayed that the scheme of absorption of casual workers which has been made applicable w.e.f. 1.1.90 and to such workers who were working on 1.1.90 in the Institute may be declared as ultra vires of Article 14 of the Constitution of India and the respondents may be directed to extend the benefit of the said scheme to the applicant also.

2. The case of the applicant is that he was employed with the Central Electronics Engineering Research Institute (CEERI) Pilani, in April, 1985 and continued to work there till his services were terminated w.e.f. 16.10.88. From the date of his employment with CEERI, a unit of the Council of Scientific and Industrial Research (CSIR), the applicant had been asked to do various jobs relating to typing, diarising letters, assisting the dealing assistants in preparation of statements etc. etc. Even though the job was full time and regular, yet the respondents designated the applicant as on contract. The applicant's tenure was extended from time to time as per extension orders Annexures A-1, A-2 and A-3. The CEERI and

10

CSIR are both instrumentalities of the State and were required to fulfil their obligations contained in Article 14 of the Constitution. The applicant worked upto 15.10.88 and his services were terminated by an oral order. The applicant submitted various representations which evoked no response. The Hon'ble Supreme Court decided a representative Writ Petition filed by the casual workers of CSIR, which was decided on 5.12.88 (Kamlesh Kapoor & Others Vs. Union of India), Writ petition case no. 631/88. In their judgement in this the Hon'ble Supreme Court directed the Indian National Scientific Documentation Centre, also a unit of CSIR, to prepare a scheme for absorption of all persons who had been engaged on casual basis for more than one year in the Centre and to absorb ~~casual~~ those who fulfil the requirements of this scheme, as regular employees in the respective posts held by them (Annexure A-4). Accordingly, the CSIR prepared a scheme known as Casual Workers' Absorption Scheme, 1990 (Annexure A-5). The scheme is highly arbitrary and applies only from 1.1.90 and does not apply to those workers whose services had been terminated prior to 1.1.90. It is, therefore, discriminatory and is violative of Article 14 of the Constitution.

3. The applicant had approached the Labour Department of State of Rajasthan but ~~was~~ advised to approach Central Administrative Tribunal. The applicant's request for demand of justice has been turned down by the respondents.

4. The respondents in their reply have stated that the application is time barred, ~~as~~ as the cause of action arose on 16.10.88 whereas the application has been filed in 1993. They have added that the applicant was engaged purely on contract basis for specified periods of time and whenever the terms of contract expired, he was given a fresh contract. This case is not covered with the judgement of the Hon'ble Supreme Court

cited by the applicant, for the reasons, inter alia, that the applicant was not a casual worker and was engaged on job contract basis. Also the scheme was not applicable to him because he was engaged upto 15.10.88. The respondents have denied that the scheme is discriminatory and is violative of Article 14 of the Constitution.

5. We have heard the learned counsel for the applicant and have gone through the records. None is present on behalf of the respondents.

6. Annexures A-1 dated 19.7.87, A-2 dated 12.12.87 and A-3 dated 6.5.88 show that the respondents wanted to assign some office work on job contract basis. In these Annexures, there is no mention regarding assignment of work on job contract basis to the applicant, though the respondents have not denied that the applicant was engaged on job contract basis in pursuance of these Annexures. We have gone through the judgement of the Hon'ble Supreme Court at Annexure A-4. From a reading of the judgement it is clear that the intention of the Supreme Court was to direct consideration of regularisation of services of those persons who were employees of the Organisation whether on a casual basis or otherwise. The applicant's case does not fall within the purview of the judgement of the Hon'ble Supreme Court. We do not see anything discriminatory in the scheme prepared by the CSIR (Annexure A-5) in pursuance of the directions of the Supreme Court. In any case the scheme is applicable to absorption of casual workers in the CSIR and it does not cover persons like the applicant who were engaged on contract basis.

7. In the circumstances of the present case, we do not find any merit in this application and it is dismissed with no order as to costs.

(O.P. SHARMA)
MEMBER (A)

Gopal Krishna
(GOPAL KRISHNA)
MEMBER (J)