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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: JAIPUR BENCH:

J A I P U R.

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O.A.NO. 395/1994

Date of order: 18-3-1998

Hari Narain S/o Shri Ladu Ram, by caste Bharti, aged about 28 years, R/o C/o Shri Nailash Bharti, Govt. Printing Press, Sardar Patel Marg, Jaipur, a daily wage employee worked on the post of Lab. Asstt., Central Ground Water Board, Western Region, C-13, Sawai Jai Singh Highway, Bani Park, Jaipur.

: Applicant

Versus

1. The Union of India through Secretary, Central Ground Water Board, Ministry of Water Resources, New Delhi.
2. The Director, Central Ground Water Board, Western Region, C-13, Sawai Jai Singh Highway, Bani Park, Jaipur- 302016.

: Respondents

Mr. Ganesh Meena, counsel for the applicant  
Mr. V.S.Gurjar, counsel for the respondents

CORAM:

HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

PER HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

The applicant herein Shri Hari Narain Bharti has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, to quash the impugned letter dated 29.4.1994 (Annx.A-1) and also the impugned termination of the applicant's service by verbal order dated 1.3.1994 by respondent No.2, the Director, Central Ground Water Board, Western Region, Jaipur. He has further sought a direction against the respondents to reinstate the applicant in service w.e.f. 1.3.1994 with all

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consequential benefits, back wages and continuity of service. He has also asked for payment for the month of February, 1994 due towards the respondents, besides seeking regularisation of the services against the vacant post of Lab Assistant, Farrash or such equivalent posts.

2. Facts relevant for disposal of this application and as alleged by the applicant are that he was initially appointed by the respondents on 1.12.1992 as daily wage worker by a verbal order of respondent No.2 on a daily wage basis @ Rs. 25/= per day. He was deployed to work in various sections by the respondents including the Chemical Laboratory. He worked continuously on daily wage basis from 1.12.1992 till February, 1994, but was not allowed to perform his duties w.e.f. 1.3.1994. He approached the Tribunal earlier by filing O.A. No.120/94 which was disposed of vide order dated 21.3.1994 with the direction to the respondent No.2 to dispose of the representation made by the applicant on 3.3.1994 by a detailed order on merits as per rules. His representation was accordingly decided and rejected vide communication dated 29.4.1994 (Annx.A/1) on the ground that the Project having shifted to Faridabad his services were not required any further. He made repeated efforts to be re-engaged but having failed he has approached the Tribunal to claim the aforesaid reliefs.

3. The respondents have opposed this application by filing a written reply, to which the applicant has also filed a rejoinder. The stand of the respondents has been that the applicant was engaged on daily wage basis for a

specific work under specific project which having subsequently shifted to Faridabad, the State of Haryana, hence discontinuance of the engagement of the applicant was because of the non-renewal of the contract between the employer and the employee; more so when the Project itself was shifted from Jaipur to Faridabad. It has been averred that the applicant did not serve against any sanctioned post and was engaged only as a casual labour in the office of the Director, Conjunctive Use Project. The respondents have also raised a plea that since the applicant was under the office of Director, Conjunctive Use Project for a specified period and it having been not impleaded as a party in the application, this application deserves rejection. It has been denied that the applicant is entitled to any relief.

4. I heard the learned counsel for the applicant as also for the respondents and have examined the record in great detail.

5. The only point for determination in this OA is "whether the applicant being a daily wage casual worker engaged to work on a specific project for a specified period can claim as of right to be re-engaged by the respondents; more particularly when the Project on which he was engaged has been shifted from Jaipur to Faridabad in the State of Haryana ?"

6. Though the applicant has produced a certificate to the effect that he has been working in the Chemical Laboratory of the respondents as a Lab Assistant on daily

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wage for the last one year, but he has failed to produce any appointment order which could indicate that he was engaged as such by the respondents. According to the applicant himself, he has been engaged on daily wage basis @ Rs. 25/- per day and according to him he worked with the respondents in the Project till February, 1994. His contention that the work which was being performed by him has not come to an end but is still continuing is self contradictory since he admits in his rejoinder that the Project in which he was engaged has been shifted to Faridabad. The non-impleadment of the Director, Conjunctive Use Project in the application has also been fatal as Director, Conjunctive Use Project by which the applicant was engaged is a necessary party. Even if for the sake of argument it is accepted that the Project has not come to an end; yet in the absence of the necessary party i.e. Director, Conjunctive Use Project which is a separate entity, the applicant cannot be granted any relief in this OA. Moreover, it has been held by Hon'ble the Supreme Court in the case of Himanshu Kumar Vidyarthi & Ors. V. State of Bihar & Ors., JT 1997 (4) S.C. 560 that daily wagers which are engaged on the basis of need of the work being temporary employees working on daily wages, their disengagement from service cannot be construed to be a retrenchment under the Industrial Disputes Act. The applicant being admittedly a daily wage worker engaged for the specified period in the office of Director, Conjunctive Use Project and the Project having come to an end at Jaipur and not being an appointee under any statutory rules; he cannot insist that he should be re-engaged.

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7. For all the aforesaid reasons, there is no merit in this OA which is hereby dismissed with no order as to costs.



(RATAN PRAKASH)

MEMBER (JUDICIAL)