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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR.

Date of order: 05.09.2000

RA No.26/2000 (OA No.630/94)

Mohan Lal Mali S/o Shri Ram Nath Mali R/o Village Jamdoli,
Near Keshav Vidya Pith, Jaipur.

.. Applicant

Versus

1. Union of India through the Secretary, Ministry of Finance, New Delhi.
2. The Chief Commissioner, Department of Income Tax, Central Revenue Building, Jaipur

.. Respondents

ORDER

Per Hon'ble Mr. N.P.Nawani, Administrative Member


This Review Application has been filed to recall/review the order dated 10.8.2000 passed in OA No.630/94, Mohan Lal Mali v. Union of India and ors.

2. Vide order dated 10.8.2000, this Tribunal had dismissed the said OA filed by the applicant with no order as to costs.

3. We have perused the averments made in this Review Application and have also carefully gone through the decision rendered by this Tribunal on 10.8.2000 in OA No.630/94.

4. The contentions put forward in this Review Application are that in para 5 of the order, the Tribunal has observed that the applicant has not controverted the contention of the respondents that the Scheme of 1993 does not

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apply on him by filing any rejoinder but the applicant had filed a rejoinder, which appears to have escaped the attention of the Tribunal. It is stated that, in fact, the name of the applicant was duly forwarded for conferring temporary status (Ann.A3 of the OA) and it is, therefore, proved that the applicant was fulfilling both the requisite requirements of grant of benefit of the said Scheme by having worked from August, 1991 to May, 1994 and he was working on the crucial date when the Scheme was notified on 10.9.1993 and that he had worked for more than one year i.e. engaged for more than 240 days. It had also been mentioned in rejoinder that a number of junior persons like the applicant including one Hanuman Prasad who was appointed in Class-IV but their services were continued but respondents arbitrarily terminated the services of the applicant on 17.11.1994.

5. We have given our careful consideration to the submissions made in this Review Application. There is no doubt that the rejoinder to the reply filed by the respondents had escaped the consideration of the Tribunal. We have now considered it to determine if the averments made therein will make any difference to the finding arrived at in our order dated 10.8.2000. It has been contended in the rejoinder that the applicant had worked for 331 days as shown in Ann.A3. We observe that all that this letter states is that the applicant "has worked for 331 days from the period August, 1991 to May, 1994". It does not indicate whether even ^{in all} one year during this period of about 3 years, the applicant worked continuously for 240 days, even after taking into account the Sundays and holidays in pursuance of the judgment of the Apex Court. In order to be entitled for temporary status under the Scheme of 1993 brought into force w.e.f. 1.9.1993 by OM dated 10.9.1993


it is necessary under para 4(i) to "have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in case of offices observing 5 days week)". The applicant has not been able to establish either in the OA or the rejoinder that he had served for 240 days continuously in at least one year. On the other hand, the respondents in their reply have stated that the applicant never worked for 240 days or more in any year. The other issue raised in the rejoinder was that the respondents ought to maintain a seniority list of daily wage employees, there were some daily wagers who were still working, even though they have joined the service much after the applicant, some of whom have been mentioned. It has also been contended that the name of the applicant should have been called from the Employment Exchange. We have already mentioned in our order dated 10.8.2000 that the Casual Labours do not hold a civil post. Maintenance of a seniority list in their case, therefore, does not arise. The employer engage the Casual Labours as per his need and the applicant, cannot, therefore, make comparisons with others. The respondents have stated that they have already completed the direct recruitment in Group 'D' posts as per names sponsored by the Employment exchange and when the name of the applicant is sponsored, his case will also be considered. This being the case, we could not have directed the respondents to consider the case of the applicant for a recruitment which had already taken place nor are we in a position to give any such relief and modify our order dated 10.8.2000.

6. We, therefore, are of the opinion that the averments made in the rejoinder filed by the applicant in OA No. 630/94 have in no way impaired the decision rendered in the said OA and this Review Application has, therefore, no merit and is,

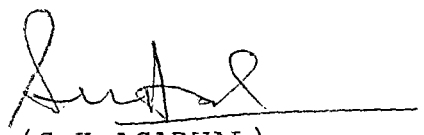
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accordingly dismissed.


(N.P. NAWANI)

Adm. Member


(S.K. AGARWAL)

Judl. Member