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**Central Administrative Tribunal  
Jabalpur Bench**

OA No.136/06

Jabalpur, this the 28<sup>th</sup> day of November 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman

Hon'ble Mr.A.K.Gaur, Judicial Member

1. Narmada Prasad Mandvi  
S/o late Shri Sukhram  
c/o Shri Rajendra Prasad Vishwakarma  
32, Vikas Nagar  
Govind Pura  
Bhopal.
2. Lallu Singh  
R/o Village Badvi  
Post Nabibagh  
Bhopal.
3. Dayaram  
R/o Behind Police Station  
Chowki, Barkhedi  
Bhopal.

Applicants

(By advocate Shri Neelesh Pillai)

**Versus**

1. Union of India through  
Its Secretary  
Department of Posts  
Dak Bhawan  
New Delhi.
2. Chief Post Master General  
MP Circle  
Bhopal.
3. Deputy Director (Accounts)  
Postal Department  
G.T.B.Complex  
Bhopal.

Respondents.

(By advocate Shri M.Chaurasia)

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ORDER

By A.K. Gaur, Judicial Member

The applicants are challenging the action of the respondents in not permitting them to function as casual mazdoors/peon. They have also assailed the order dated 8.3.2000 (A-6) whereby the respondents discontinued the service of the applicants.

2. The brief facts are that the Bharatiya Telecom Employees Union entered into an agreement with the Postal Department, Bhopal, whereby the Management agreed to re-engage the applicants. When the Management failed to carry out their commitment, the applicant took the matter to the Labour Court. Against the Labour Court order, the Management filed a writ petition before the High Court which, according to the applicants, was rejected. However, despite a number of representations, the applicants were not taken back in service and they were prevented from discharging duties as casual mazdoors. The applicants finally took the matter to the High Court in W.P.No.5614/2000 and the High Court disposed of the writ petition stating that the applicants can have the remedy before this Tribunal. Hence this OA.

2. The contention of the respondents is that in compliance with the settlement arrived at, the applicants were offered employment but none of them accepted the offer by way of reporting for duties. When the dispute reached the Labour Court, it directed the respondents to pay Rs.7457/- to the applicants as wages. The applicants themselves had dishonored the agreement by way of non-acceptance of the offer once again at this belated stage of time after a lapse of 14 years. All other facts having been admitted as matter of records, they have contended that the applicants were working as casual labourers and it is not possible for any employer to engage them all the time for attending to work of casual nature arising from time to time for a limited period only.

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3. We have heard the learned counsel appearing on either side and perused the records. From the pleadings of the parties, following questions come up for consideration:

- (i) Whether in view of the order passed by this Tribunal in OA No.325/92 decided on 1.2.96, this Tribunal has got jurisdiction to entertain this OA.
- (ii) Whether this OA is maintainable in view of the decision rendered by Hon. Supreme Court in 2006 3 SLR Secretary, State of Karnataka and others vs. Umadevi and others.

4. We have given our anxious consideration to the pleadings of the parties and the arguments advanced on behalf of the counsels.

5. The question involved in this case relates to settlement of dispute, entered into by the Union and Management. In view of the decision rendered by Supreme Court in Krishna Prasad's case, 1995 (6) Scale 89, and the decision rendered by this Tribunal in OA 855/05 decided on 10.1.96, this Tribunal has no jurisdiction to entertain an industrial dispute. The appropriate forum for the applicants is the Labour Court. This Tribunal while disposing of OA No.325/92 had clearly observed that this Tribunal has no jurisdiction to entertain the OA, as the matter related to industrial dispute.


6. As for the question of regularization of the applicants, in view of the decision in Umadevi's case, the Supreme Court has held that "those appointed irregularly and not in terms of prescribed procedure have no legal right to be made permanent." The main observation made by the Supreme Court is that "any public employment has to be in terms of the Constitutional scheme. But sometimes this process is not adhered to and the Constitutional scheme of public employment is by-passed. It is time that Court must desist from issuing orders preventing regular selection or recruitment at the instance of such persons and from issuing directions for continuance of those who have not secured regular appointments as per procedure established. The passing of orders for continuance tends to defeat the very Constitutional scheme of public employment. It has to be emphasized that this is not the role envisaged for High Courts or this Tribunal in

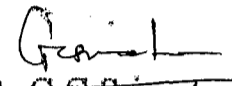
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the scheme of things and their wide powers under Article 226 of the Constitution of India are not intended to be used for the purpose of perpetuating illegalities, irregularities or improprieties or for scuttling the whole scheme of public employment. Its role as the sentinel and as the guardian of equal rights protection should not be forgotten."

7. In view of the aforesaid observations of the Supreme Court, this Tribunal has no jurisdiction to entertain this OA. Moreover, the OA is also barred by delay. Accordingly the OA is dismissed. No costs.

  
(A.K. Gaur)  
Judicial Member

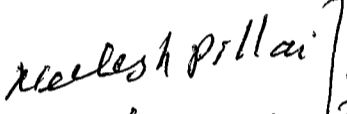
  
(Dr. G.C. Srivastava)  
Vice Chairman

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पृष्ठंकन सं ओ/न्या.....जवलपुर, दि.....  
पतिलिपि अर्पित:-

- (1) सचिव, राज्य न्यायालय एवं एडमिनिस्ट्रेशन, जवलपुर
- (2) आदेशक श्री श्रीवास्ती/पु.....के कार्यालय
- (3) प्रत्यक्षी श्री/श्रीवास्ती/पु.....के कार्यालय
- (4) न्यायालय, जवालपुर, जवालपुर - जवालपुर

सूचना एवं आवश्यक कार्यवाही, जवालपुर  
उप रजिस्ट्रार

  
Neelesh Prillai  
m. chavara

Dr. Gaur  
on 5/12/06  
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