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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 378 of 2004

Jabalpur, this the 5th day of November, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Hari Mitra Shamma, S/o. Shri Govind
Prasad Shamma, aged about 34 years,
R/o. Village Jeruka, Post Pipakhara,
Distt. Rewa (MP).

... Applicant

(By Advocate - Shri Munish Saini)

V e r s u s

Union of India, through

1. The Secretary, Ministry of
Human Resource & Development
Deptt. of Culture, Shastri Bhawan,
New Delhi.
 2. The Director General Archiological
Survey of India, Janpath, New Delhi.
 3. The Superintendent, Archeological
Survey of India, GTB Complex, 3rd Floor,
TT Nagar, Bhopal (MP).
- ... Respondents

(By Advocate - Shri K.N. Pethia)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has
claimed the following main reliefs :

"8.1 to quash the order (if any) terminating the
services of the applicant with a further direction of
continuing him with all consequential benefits,

8.2 to quash the order dated 7.4.2004 passed by
the respondent No. 3 (Annexure A-12),

8.3 direction to the respondents to regularise the
applicant against the post of Monument Attendant
advertised by them and vacant at present,

8.4 direction to the respondents to grant regular
status to the applicant against Group-D post lying
vacant in the department or by creating the same as
per the policy of the Government, with all consequen-
tial benefits."

2. The brief facts of the case as stated by the applica-

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nt are that the applicant was engaged by the respondents on 15th April, 1992 and continued to work till 13th September, 2002 with artificial breaks granted to him in between. Earlier the applicant had filed OA No. 922/2003 and the Tribunal vide its order dated 8th January, 2004 has passed the following order :

"4. In the circumstances we are of the considered view that ends of justice would be met if we direct the respondents (respondent No. 3) to decide the representation of the applicant dated 22.9.2003 (Annexure A-6) in the light of the judgment of the Tribunal dated 5th September, 2001 in OA No. 2473/2000 passed by the Central Administrative Tribunal, Principal Bench, bypassing a speaking, detailed and reasoned order within a period of three months from the date of receipt of copy of this order. A copy of this order and also the copies of the Original Application as well as the aforesaid decision of P.B., dated 5.9.2001 be sent to the respondent No. 3 by the applicant within 15 days from today."

In pursuance of this order the respondents have passed the order dated 7th April, 2004 (Annexure A-12). The relevant portion of the said order is extracted below :


"Sub. : Regarding considering the representation for regularisation of services.

Ref. : Your representation dt. 22/9/2003 (not received earlier, received in this office alongwith the papers of CAT)

With reference to the abovementioned letter and subject it is hereby informed that his above cited representation has duly been considered by the under-signed. It has also been found that this representation does not bear proper merit for giving any kind of employment to him. He has not been found fit for giving the employment.

Hence, his abovementioned representation is hereby rejected."

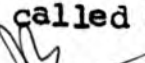
3. It is apparent from the above order passed by the respondents that this order is not a speaking order and has been passed without considering the representation of the applicant properly. The applicant by filing this Original Application is seeking direction to consider him for conferment of temporary status and thereafter for regularisation on the post of Monument Attendant. It is



seen from the facts that the applicant was working with the respondents since 1992. Therefore, the scheme introduced by the Government of India, Department of Personnel & Training, called as Casual Labourers (Grant of Temporary Status and regularisation) Scheme of Government of India-1993 is applicable in the case of the applicant. Under this Scheme ^athe person working on daily wages^{as} on 1st September, 1993 was required to be considered for conferment of temporary status and regularisation thereafter subject to availability of the vacancies with the Department. As it was a one time scheme and as the applicant was working on that date i.e. 1.9.1993, and continued till 13th September, 2002 with artificial breaks, he is eligible for consideration for conferment of temporary status and thereafter for regularisation against the vacancy available with the Department.

4. The learned counsel for the respondents submitted that the applicant's conduct during his working with the respondents was not satisfactory and he has been making complaints with false allegations against his senior officers. He further submitted that the Government of India, Department of Personnel and Training's scheme of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India-1993 is not applicable to the case of the applicant. Certain guidelines^{have been} issued by the DOPT vide letter at Annexure R-1 to implement the aforesaid scheme.

5. In the facts and circumstances of the case, we are of the considered opinion that ends of justice would be met if the order dated 7.4.2004 (Annexure A-12) is quashed and set aside and the respondents are directed to consider the claim of the applicant for regularisation under the scheme called Casual Labourers (Grant of Temporary Status and



Scheme of Government of India
Regularisation/-1993 and also in accordance with the rules
and law, as and when there is any vacancy available with
the Department in future. We do so accordingly.

6. Accordingly, the Original Application stands disposed
of. No costs.

(Magan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पृष्ठंकन सं ओ/व्या.....जबलपुर, दि.....
पतिलिपि अद्यो धित:-

- (1) सचिव, उच्च न्यायालय का एग्रेसिभर, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल M. Sams Adv
- (3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल D.P.
- (4) कंथपाल, के.प्र.अ., जबलपुर न्यायपीठ K.M. Pethi 9

सूचना एवं आवश्यक कार्यवाही हेतु

11/11/11 उप निरीक्षक

Adv. D.P.

Issued
On 1-12-07
BS