

**Central Administrative Tribunal
Principal Bench, New Delhi**

**RA No. 44/2016
in
OA No.3031/2015**

Order Reserved on:07.11.2016
Order Pronounced on:09.11.2016

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. Shekhar Agarwal, Member (A)**

Shri Dinesh Rawat & Ors.Review Applicants

(By Advocate: Shri S.K.Gupta)
Versus

Union of India & Ors.Respondents

(By Advocate:Shri Hanu Bhaskar)

ORDER

By Hon'ble Mr. V. Ajay Kumar, Member (J)

The Original Applicants in OA No.3031/2015 have filed the present RA seeking to review the order dated 18.01.2016 where under the OA had been disposed of finally after hearing both sides.

2. The applicants, who are working as Accountants, Junior Accounts Officers, Personal Assistants, Private Secretaries and Stenographers on long term contract basis in the 2nd Respondent-National Highways Authority of India filed the OA seeking to quash and set aside the communication dated 22.07.2015 and to direct the 2nd respondent to complete the process of regularisation in terms of the amended Regulation 13A (ii) of National Highways Authority of India (Recruitment, Seniority & Promotion) Regulations, 2015 vide notification dated 07.01.2015.

3. The 2nd Respondent-NHAI vide its decision taken in its 16th Meeting held on 28.11.1997 decided to appoint officers/employees on long term contract basis, which decision was reiterated in its 27th Meeting held on 25.01.2000. As per the decision, the long term contractual employees were to be engaged only for the duration of the Project and not on continuous basis, approved the proposal for framing a Scheme for regularization of their services as a one-time measure. In pursuance of the said decision, pending approval from the Department of Personnel & Training, the amendment vide National Highways Authority of India (Recruitment, Seniority and Promotion) [Amendment] Regulation, 2015, was notified and published in the Official Gazette on 07.01.2015 incorporating Regulation 13A with regard to one-time regularization of long term contract employees working in NHAI with a minimum period of five years service as on 30.06.2015. However, the DOP&T vide its Note dated 6.1.2015 (Received by NHAI after Notification dated 07.01.2015), returned the proposed amendment as not feasible and advised NHAI, to take appropriate action.

4. This Tribunal after considering the aforesaid facts and after hearing both sides disposed of the OA as under :-

"8. When this matter is taken up for hearing, it is admitted by both sides that though the Notification dated 07.01.2015, i.e., National Highways Authority of India (Recruitment, Seniority and Promotion) [Amendment] Regulation, 2015, was published in the official Gazette, providing one-time Scheme for regularization of long term contract employees in NHAI, but the said amendment cannot become part of the National Highways Authority of India (Recruitment, Seniority and Promotion) Regulations, 1996, unless the same are approved by the Union of India. Therefore, no direction can be given to give effect to the said Notification dated 07.01.2015.

9. However, it is also an admitted fact that the 2nd Respondent-NHAI vide its detailed letter dated 07.05.2015 requested the 1st Respondent to have a re-look in the matter and to send a reply to

the Department of Personnel and training (DoPT) for resolving the issue of regularization of long term contract employees.

10. In these circumstances, the OA is disposed of by directing the 1st Respondent to take a final view, in consultation with the Department of Personnel & Training, on the issue of regularization of long term contract employees, including the applicants, as per rules. This exercise shall be completed as early as possible, preferably within six months from the date of receipt of a copy of this order. The respondents shall not terminate the services of the applicants, till then. No order as to costs."

5. The learned counsel for the review applicants submits that he had not admitted to the effect that "unless the National Highways Authority of India (Recruitment, Seniority and Promotion) [Amendment] Regulation, 2015 is approved by the UOI, no direction can be given to give effect to the said notification dated 07.01.2015", however, this Tribunal while disposing of the OA has wrongly recorded that he has admitted the said fact and hence the order is liable to be reviewed and to be decided on merits including on the said issue.

6. On the other hand, the learned counsel for the respondents submits that even without the admission of the applicants with regard to the notification dated 07.01.2015, the OA can be disposed of on the same lines as it was disposed of and hence there is no necessity to review the order. He further submits that in pursuance of the order dated 18.01.2016 they have taken a final view and passed order to that effect.

7. In any event once an observation is made basing on an admission of a party and that subsequently it is found that no such admission was made, it is just in the interest of justice to give an opportunity to the concerned party and to decide the matter afresh on merits. Since the learned counsel for the applicant has also filed a personal affidavit clearly stating that he has not

given any admission, as referred above, we are of the considered view that order under review deserves to be recalled.

8. In the circumstances the review is allowed and the order dated 18.01.2016 in OA No.3031/2015 is recalled. Accordingly, the Registry is directed to restore the OA No.3031/2015 to its original file and list it for hearing on 08.12.2016.

(Shekhar Agarwal)
Member (A)

(V. Ajay Kumar)
Member (J)

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