

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.75/2015

Wednesday, this the 1st day of February 2017

Hon'ble Mr. K.N. Shrivastava, Member (A)

Mukesh Kumar, age 26 years
Group D - Reengagement
s/o Mr. Ram Sharan
r/o D-819, Netaji Nagar
New Delhi

..Applicant

(Ms. Neelima Rathore, Advocate for Mr. U Srivastava, Advocate)

Versus

Union of India through

1. The Secretary
Ministry of Welfare, Govt. of India
Shastri Bhawan, New Delhi
2. The Under Secretary
Govt. of India, Ministry of Social Welfare
Shastri Bhawan, New Delhi

..Respondents

(Mr. Sunil Ahuja, Advocate)

O R D E R (ORAL)

The applicant was engaged as a Waterman on daily wages by the respondents-Ministry of Welfare, Government of India vide Annexure A-1 order dated 01.05.1998. The said order indicates that the engagement was for the period from 01.05.1998 to 30.09.1998. On completion of the said period of engagement, the applicant was disengaged by the respondents. He, along with another similarly circumstanced person, approached this Tribunal by filing OA. No.1858/2000 seeking *inter alia* a direction to the respondents to reengage him. The said O.A. was disposed of by the Tribunal vide order dated 24.01.2001, the operative part of which reads thus:-

“6. Considering the fact that applicants had earlier worked with the respondents, I am of the opinion that they should have been given

preference over freshers and juniors at the time of fresh engagement when the work had again become available with the respondents.

7. Under the circumstances, this O.A. stands disposed of with a direction to respondents that if the work is available with them, they shall consider the applicants for re-engagement in preference to juniors and freshers, particularly so when their names had earlier been sponsored by the employment exchange. The requirement of again forwarding the names of applicants by the employment exchange for fresh engagement, shall be dispensed with. No costs.”

2. It is the case of the applicant that pursuant to the said order of the Tribunal, the respondents, in fact, had reengaged him, in support of which certain documents at Annexure A-3 have been filed. These documents are (i) a copy of temporary passes issued by the Government of India in Ministry of Home Affairs to the applicant, which was valid from 15.11.2001 to 14.12.2001; and (ii) a copy of internal note of respondent-Ministry indicating that a proposal was submitted for reengagement of the applicant and Mr. Devender, who was a co-applicant in O.A. No.1858/2000.

3. Learned counsel for respondents submits that the applicant was never reengaged by the respondents. He further submits that the housekeeping work, which also includes the work of Waterman, has now been outsourced and as such there is no scope of any reengagement of the applicant.

4. Learned proxy counsel for applicant placed on record a judgment of Hon'ble High Court of Delhi in W.P. (C) No.6057/2012 dated 20.05.2013 wherein a direction was issued by the Hon'ble High Court to the respondents (Govt. of India & others) to impress upon the contractor, who had been engaged for the work, to engage the petitioners therein in preference to the outsiders. The learned proxy counsel submits that the applicant in this O.A. is identically placed with the petitioners in W.P. (C) No.6057/2012 and that he would be satisfied if a similar direction is issued to the respondents, as has been done by the Hon'ble High Court in the *ibid* W.P.

5. I have carefully considered the arguments of learned counsel for the parties and have also perused the records.

6. It is clear that the applicant's engagement vide Annexure A-1 order dated 01.05.1998 was on daily wages and only for a limited period of four months. On the expiry of said period of engagement, the applicant was disengaged. This Tribunal, vide order dated 24.01.2001 in O.A. No.1858/2000, had only directed the respondents to give preference to the applicant therein for reengagement, vis-a-vis, juniors and freshers. Since the housekeeping work has been outsourced by the respondents, the scope of reengagement simply does not exist. The applicant, however, is at liberty to approach the agency to whom the housekeeping work has been outsourced and request for his reengagement with the said agency. He is also at liberty to request the respondents to make appropriately recommend his case to the said agency. Needless to say that it would be entirely the decision of the outsourced agency to engage the applicant or not to do so.

7. In the conspectus of the discussions in the foregoing paragraphs, I do not find any merit in the O.A. It is accordingly dismissed. No order as to costs.

(K.N. Shrivastava)
Member (A)

February 1, 2017
/sunil/