

**Central Administrative Tribunal
Principal Bench**

OA No.419/2017

New Delhi, this the 6th day of February, 2017

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

Shri Mahender Singh Mehra, Aged 34 years,
S/o Sh. Mohan Singh Mehra,
R/o K-2, 1203-A, Sangam Vihar,
Near Kavi Mandir, Group 'C',
New Delhi-110062
Designation-MTS.

...applicant

(By Advocate : Shri Dhananjai Jain)

Versus

Union of India
Through its Secretary,
Ministry of Micro Small & Medium Enterprises,
Udyog Bhawan,
New Delhi-110001.

...respondent

ORDER (ORAL)

Heard the learned counsel for applicant.

2. The applicant who was a Casual Group 'C' employee with the respondent had filed the OA No.2666/2004 before this Tribunal seeking re-engagement in the service. This Tribunal vide its order dated 15.04.2005 disposed of the said OA as under :-

“2. Respondents have filed their reply wherein they have stated that Ministry has no vacant post of Group 'D' and have no work for these casual labourers at present. Today when the matter was called out, counsel for respondents made statement in Court that as when vacancy/work becomes available they would consider the

applicants for reengaging. As on date since there is neither any vacant post of group 'D' nor any work for these casual labourers are available, therefore, the reliefs as prayed for by the applicants cannot be granted.

3. I have heard both the learned counsel and perused the pleadings as well. It is settled by now that in the absence of any post or work, no direction can be given by the Tribunal for reengagement of casual labourers but in view of the fact that respondents' counsel have themselves made statement in Court on instructions from his client that they would be willing to consider reengaging applicants as and when vacancy/work is available, no further directions need to be given in this OA. Therefore, this OA is disposed of in terms of statement given by counsel for the respondents themselves. No order as to costs."

3. The learned counsel today, while drawing our attention to the Annexure-A/3 submits that there are certain vacancies in the category of MTS (P) available with the respondent and even though the applicant made representation to consider his case for engagement in the said vacancies, they have not taken any action till date.

4. This Tribunal while disposing of the OA No.2666/2004 by noting the statement made by the respondent only observed that as and when the work/vacancy becomes available the respondent would consider the cases of the applicant for re-engagement.

5. It is well settled principle of law that no Employer can be compelled to appoint or engage a person only on the ground that the vacancy is available.

6. In the circumstances, the OA is disposed of without going into the merits of the case by directing the respondent to consider the case of the applicant for his re-engagement on casual basis, if there is work, in preference to his juniors. No costs.

Let a copy of the O.A., be enclosed to this order.

(V. Ajay Kumar)
Member (J)

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