

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

M.A.No.1939/2013 in O.A.No.3870/2011

Order reserved on 17th January 2017

Order pronounced on 20th January 2017

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

Mr. Karam Chand

..Applicant

(Mr. R.K. Shukla, Advocate)

Versus

Union of India & others

..Respondents

(Mr. Rajinder Nischal, Advocate)

O R D E R

The applicant through the medium of this M.A., filed under Rule 24 of the C.A.T. (Procedure) Rules, 1987 read with Section 27 of the Administrative Tribunals Act, 1985, has sought implementation of the Tribunal's order dated 09.05.2012 passed in O.A. No.3870/2011 [Karam Chand (applicant in M.A.) v. Union of India & others]. The aforementioned order reads thus:-

“After some arguments, learned counsel appearing for the parties are ad idem that present OA may be disposed of with a direction to respondents that applicant would be considered for his re-engagement as casual labourer and regularization as group D employee on availability of next vacancies by relaxing maximum age limit to the extent of length of service rendered by him as daily rated worker. Ordered accordingly.

OA stands disposed of.”

2. The applicant's contention is that although there is no time limit stipulated in the order dated 09.05.2012 for the implementation of the

directions contained therein, but it can be assumed that the normal period of implementation was six months. Since the respondents have failed to implement the said order, the applicant is left with no option except to approach this Tribunal by way of this M.A. seeking execution of the aforementioned order. It is also contended that several of the applicant's juniors have since been regularized in Group 'D' post by the respondents overlooking the case of the applicant. Names of such juniors are also indicated in paragraph 5 of the M.A.

3. Pursuant to the notice issued, the respondents entered appearance and filed reply, contending, *inter alia*, therein that there is no Group 'D' post existing in the respondent-Department after the implementation of the recommendations of the 6th Central Pay Commission (CPC). It is further submitted that all works that were being carried out by Group 'D' employees earlier are now being got done through an outsourced agency and that the applicant was advised to approach the outsourced agency engaged by the Department for his engagement under the said agency.

4. The respondents have also filed additional affidavit on 10.06.2014 wherein they have reiterated that all the casual nature of works have been outsourced in accordance with the policy by the respondents. They have also quoted Rule 178 of GFR 2005, which reads:

“A Ministry or Department may outsource certain services in the interest of economy and efficiency and it may prescribe detailed instructions and procedures for this purpose without however, contravening the following basic guidelines.”

5. The respondents have further contended that after the verdict of the Constitution Bench of Hon'ble Supreme Court in **Secretary, State of**

Karnataka & others v. Umadevi & others, (2006) 4 SCC 1, casual workers have no right to engagement or continuance or permanence in the jobs.

6. The applicant, in his rejoinder to the reply filed on behalf of the respondents as well as in his reply to the additional affidavit filed on behalf of the respondents, has contended that Rule 178 of GFR 2005 is not applicable to his case, as he was on the roll of the respondents as a daily wager even before the year 2005 when GFR 2005 came into existence. It is also contended that a number of casual labourers have been absorbed in the Government Departments post-**Umadevi** (supra) not just on the strength of judicial directions but also on the basis of the equity. The applicant further contends that several of his juniors, like Mangal Singh, Amit, Anish, Vishal and Amrish are working in the respondent-Department through a labour contractor.

7. The arguments of the learned counsel for parties were heard on 17.01.2017.

8. Admittedly, the order dated 09.05.2012 in O.A. No.3870/2011 is an order passed with the consent of both the parties. Hence, it is natural to assume that the respondents did not have any difficulty, legal, administrative or otherwise, in reengaging the applicant as a casual labourer and to consider his regularization as a Group 'D' employee against a vacancy available in future. This being the factual matrix of the case, an unfair and specious argument has been put-forth on behalf of the respondents that there is no scope of reengaging the applicant as a casual labour post-implementation of the recommendations of 6th CPC, which

came to be implemented vide O.M. dated 30.08.2008 and became effective from 01.09.2008; and that in terms of Rule 178 of GFR 2005, works of casual nature have been outsourced, and that the Hon'ble Apex Court in **Umadevi's** case (supra) would also come in the way of reengaging the applicant. The Tribunal, considering the engagement of the applicant as a casual worker by the respondents for a long period of time and with the consent of the respondents, had ordered reengagement of the applicant as a casual worker with prospects of his regularization against a future Group 'D' vacancy, vide order dated 09.05.2012.

9. Taking an overall view of the matter, I am of the firm opinion that the respondents cannot be allowed to raise any additional plea to thwart the implementation of order dated 09.05.2012. Hence, it is necessary to direct the respondents to implement the order dated 09.05.2012.

10. In the conspectus of the discussions in the foregoing paragraphs, the respondents are directed to reengage the applicant as a casual worker within two months from the date of receipt of a copy of this order.

11. The M.A. is accordingly disposed of. No costs.

(K.N. Shrivastava)
Member (A)

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