

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 3479/2017

M.A. No. 3712/2017

New Delhi, this the 4th day of October, 2017

HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. NITA CHOWDHURY, MEMBER (A)

Eknath Jagannath Sale,
Aged about 55 years,
Post : Pump Operator,
S/o Shri Jagannath Sale,
R/o House No.280,
Village Tuglakabad, New Delhi. .. Applicant

(By Advocate: Shri A.K. Mishra with Shri Amit Kumar Pandey)

Versus

Director General of Works,
C.P.W.D., Nirman Bhawan,
New Dehi-110001. .. Respondent

ORDER (ORAL)

By Mr. V. Ajay Kumar, Member (J)

Heard the learned counsel for the applicant.

2. The applicant, a casual employee of the respondents, earlier raised two industrial disputes, one pertaining to his regularisation and the other relating to his subsequent termination. Both disputes were ended by the Central Government Industrial Tribunal (CGIT) in his favour by a common award. The CGIT set aside the order of termination directing reinstatement in service and also directed the

respondent – CPWD to regularise the services of the applicant. Challenging both the awards, the CPWD filed WPC No.18542/2005 and WPC No.22029/2005, which were decided by a learned Single Judge vide common judgment dated 17.08.2009. In so far as writ petition filed by the CPWD challenging the termination is concerned, that has been dismissed upholding the award of the CGIT and pursuant thereto, the applicant even joined back his duties. Insofar as the second writ petition pertaining to regularisation is concerned, the learned Single Judge has held that the order of CGIT directing regularisation of the applicant is perverse and contrary to law as much as the Industrial Adjudicator was not empowered to give such directions. That apart, it is also noted in para 6 of the said judgment that the counsel for the applicant took instructions from the applicant, who was present in the court, to the effect that he did not want to press the claim of his regularisation and even conceded that the award of the Industrial Adjudicator in so far as it directed regularisation of the applicant workman be set aside.

3. An LPA No.604/2012 was preferred against the writ petition pertaining to regularisation of the applicant and the Hon'ble High Court of Delhi by its order dated 03.09.2012 dismissed the said LPA (Annexure A-11). The SLP filed against the said LPA was also

dismissed by the Hon'ble Apex Court by its order dated 28.03.2014 (Annexure A-12).

4. In spite of the aforesaid orders upto the Hon'ble Apex Court, the applicant continued to make representations seeking regularisation of his services. He also filed O.A. No.479/2017 for seeking regularisation of his services and this Tribunal by its order dated 09.02.2017 disposed of the said O.A. without going into the merits by simply directing the respondents to consider the representations of the applicant and to pass appropriate reasoned and speaking orders thereon.

5. In compliance of the said order, the respondents passed Speaking Order dated 12.05.2017 (Annexure A-15) explaining the complete gamut of the case and the chronological events occurred. The respondents also mentioned in the said speaking order that when the applicant was asked to appear and to qualify the Trade Test, which was held on 28.05.1993, as prescribed for the post of Mechanic Grade-2, he failed to qualify in the said test, which is a pre-requisite condition for recruitment to the post of Mechanic and that the applicant do not possess the Trade Certificate from recognised Training Institute, which is also required qualification for the post, as per the CPWD Manual.

6. In spite of the same, the respondents keeping in view the long service of the applicant, vide letter dated 30.06.2017 (Annexure A-16) offered the post of Khallasi to the applicant on regular basis and also asked him to submit his option and undertaking, if he is willing for the same.

7. Questioning the said action of the respondents, the applicant filed the instant O.A. again seeking regularisation of his services as a Pump Operator and not as a Khallasi, that too w.e.f. 1984 and with all consequential benefits.

8. Firstly, the applicant's case for regularisation as Mechanic or Pump Operator or any other post was already decided upto the Hon'ble Apex Court and he cannot raise this issue again. Hence, we do not see any merit in the O.A. and, accordingly, the same is dismissed. However, this order shall not preclude from accepting the offer of the respondents made vide Annexure A-16 dated 30.06.2017, if he is so advised.

9. In view of final orders passed in the O.A., MA 3712/2017 also stands disposed of. No order as to costs.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

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