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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 631/2003

New Delhi, this 14 day of November, 2003

Hon'ble Shri S.K. Naik, Member(A)

Gurdeep Singh
D-66, Sanjay Gandhi Memorial Nagar
Badkhal Road, Faridabad .. Applicant

(Shri G.K. Aggarwal, Advocate)

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Union of India, through

1. Director General (Works)
Central Public Works Department
Nirman Bhavan, New Delhi
2. Superintending Engineer (Electrical)
Coordination Circle (Electrical)
CPWD, East Bloc I, Level 7
R.K.Puram, New Delhi
3. Superintending Engineer (Electrical)
Outer Delhi Electrical Circle, CPWD
East Block 3, RK Puram, New Delhi
4. Superintending Enr., Delhi Central
Circle V, CPWD, East Block 4
R.K.Puram, New Delhi .. Respondents

(Shri B.S. Jain, Advocate)

ORDER

By virtue of the present OA, applicant seeks grant of temporary status as also regular status as Motor Lorry Driver (MLD, for short) retrospectively with arrears from the date his junior was granted the said benefits.

2. According to the applicant, he has joined service as Hand-Receipt Motor Lorry Driver in CPWD on 1.11.1988 and continues to work as such till date uninterruptedly. Though he was granted temporary status vide order dated 26.4.94, the same was withdrawn by another order dated 10.8.1994. He was declared to have passed the trade test by letter dated 31.7.1995. He claims that he is the senior most MLD and his juniors have been granted

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temporary status followed by regularisation, one of whom is V.S.Rawat, who filed OA 1338/2000 seeking similar reliefs and the same was disposed of by this Tribunal on 14.12.2000 directing the respondents to regularise Shri Rawat. He further contends that his case is covered by the judgement of the Supreme Court in UOI Vs. Mohan Pal (2000)4 SCC 573.

3. Respondents have filed only short reply on 16.10.2003 raising preliminary objection, following the ratio of the judgment of the apex court in the case of S.S.Rathore Vs. State of MP and some other cases, that the OA is time barred as the applicant has challenged the order dated 10.8.1994 after a lapse of about 9 years. Since the applicant has not challenged the order dated 10.8.1994 I do not find it necessary to look into this aspect. That apart, I also find that the applicant has made a representation to the respondents for his regularisation on 12th November, 2002 which admittedly has not been disposed of so far. Therefore the plea of limitation needs to be rejected.

4. However, during the course of arguments, learned counsel for the respondents has produced copies of some more judgements decided by the Delhi High Court as well as the apex court to contend that the applicant is not entitled for the relief prayed for inasmuch as he is working against the Group C post of Driver and there is no question of applicability of 1993 Scheme of the

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202



Government relating to grant of temporary status/regularisation thereof as the same applies only to casual labourers (Group D) and not Group C. He has also produced a copy of the communication dated 24.6.94 in this regard issued by Respondent No.1, pursuant to which temporary status granted to the applicant erroneously had to be withdrawn. In view of this position, the OA deserves to be dismissed, he has contended.

5. The counsel for the respondents in response to this limb of argument advanced by the counsel for the applicant has stated that even the Scheme for grant of temporary status is not applicable to the applicant as he belongs to Group C category. He has stated that applicant's claim is fully justified for regularisation, as MLDs appointed on later dates than the applicant have been so regularised. In view thereof, the relief sought for grant of temporary status is rejected.

6. With regard, however, to the other relief pertaining to regular status, I have heard the learned counsel for the parties and also gone through Annexure A-6 containing the names of MLD(HR/MR) who were regularised after ban dated 19.11.85. This list also contains the name of V.S.Rawat in implementation of the OA filed by him referred to above. I have also gone through judgement dated 14.12.2000 filed by V.S.Rawat (supra) the operative portion of which reads as under:

"7. In the background of the above discussions, we are convinced that the applicant deserves to be treated in the same way in which the aforesaid juniors to him have been treated. Accordingly, the applicant deserves to be regularised/confirmed from November, 1995 with all consequential benefits which

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will include backwages with effect from the date of regularisation. This will be done expeditiously and in any event in a period of three months from the date of receipt of a copy of this order. We order accordingly."

7. The learned counsel for the respondents has not been able to convince me as to how the aforesaid judgment cannot be made applicable in the instant case and why only in respect of applicant grant of temporary status was withdrawn in terms of communication dated 24.6.94 and not in respect of similarly situated persons. It is not disputed on either end that regular vacancy in the grade of MLD is available with the respondent-department against which the applicant is continuing till now and that the applicant has also passed the Trade Test, which is one of the pre-requisites in terms of extant R/Rules for the post in question. Therefore, I have no hesitation to hold that the case of the applicant is covered in all fours by the judgement in the case of Rawat (Supra) and the applicant is, therefore, entitled to the relief prayed for.

8. In the result, the present OA is allowed. Respondents are directed to regularise the applicant in the post of MLD with effect from the same date when similarly placed persons were so regularised. Applicant shall be eligible for the consequential benefits flowing out of such regularisation. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs.

Naik
(S.K. Naik)
Member(A)