

(3) CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

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O.A.No.1038 of 2003

New Delhi this the 12<sup>th</sup> day of April 2004.

Hon'ble Shri S.A. Singh, Member(A)

1. Sanjay Kumar
2. Satbir Singh
3. Manoj Kumar
4. Dilshad Bano
5. Yogender Mehta
6. Mithlesh Paswan
7. Partap Singh Rana
8. Chander Pal

.... Applicants

(All C/o Sanjay, S/o Late Shri Jai Chand  
R/o House No.3938, Street No.13, Shanti  
Mohalla, Gandhi Nagar New Delhi.)

(By Advocate: Shri Arun Rathi for Dr.Surat Singh)

versus

1. Commissioner of Customs (Administration)  
I.G.I. Airport  
New Delhi
2. Chief Commissioner,  
Central Excise, C.R. Building  
New Delhi
3. Ministry of Finance  
through its Secretary  
Department of Revenue  
General Administration(R)  
North Block  
New Delhi.

.... Respondents

(By Advocate: Shri R.V. Sinha)

Order

The applicants, 8 in number, were appointed by the respondents as casual workers on daily wage basis in their Delhi Office, vide order dated 30.3.1999. The applicants filed an OA-1985/1999 seeking that the services of the applicants should not be replaced by fresh casual worker. However, during pendency of this OA the services of the applicants were terminated and they filed C.P. No.288/1999 stating contumacious disobedience of the Tribunals direction. The Tribunal disposed of CP and OA vide orders dated 10.9.1999,

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6.12.2000 that subject to work available in the Faridabad Office, respondents should consider engagement of applicants who are willing to work there in preference to juniors, outsiders and contract labourers.

2. The applicants, ~~had~~ again, through the OA, are agitating the matter by stating that the respondents are regularly engaging casual workers, who are juniors to the applicants by overlooking the orders of the Tribunal. In support of this contention they have placed on record the letters of the respondents dated 20.8.1999, 9.5.2002, 4.6.2002, 5.7.2002 and 4.3.2003 which are attached collectively as Annexure A-4. They also added that the respondents have appointed some of the daily wagers who are presently working with the respondents, as Sepoys and thus vacancies have become available where the applicants can be re-engaged. The applicants also urged that they have served for more than 240 days and as such they need to be re-engaged.

3. The respondents have strongly contested claims of the applicants and pleaded that this OA is nothing but misuse and abuse of the process of law. As no fresh cause of action had accrued for filing the present OA. Further, OA is barred by the principles of constructive res judicata inasmuch as the applicants had filed earlier OA-1985/99 and CP-288/1999 which stood disposed of vide orders dated 10.9.1999 and 6.12.2000 wherein the Tribunal had clearly ordered that the applicants were to be considered for engagement in Faridabad Office of the respondents, in case <sup>of</sup> availability of work and of their being willing to work there in preference to juniors and outsiders. They added that no

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fresher or juniors to the applicants have been engaged by the respondents against the work for which the applicants herein were initially engaged. And that they can not claim preference in the various Divisions of the respondents, spread throughout the country, as this is administratively difficult and beyond the decision of the Tribunal.

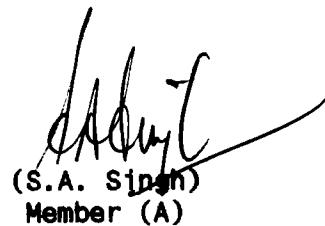
4. The respondents submitted that the applicant were engaged as casual workers in purely temporary basis, for two spells of 85 days each during the period 5.3.99 to 30.8.99 and have not been retained after 30.8.1999 as there was no work available against which they could be engaged and as such they have not completed the requisite number of days as prescribed in the scheme of 10.9.93. They were not entitled for grant of temporary status or any other benefit. Moreover, the scheme for grant of temporary status is one time concession as per judgment of the Apex court.

5. It is not contested by either parties that the orders of the Tribunal were for considering the applicants for engagement, if work was available, in the Faridabad Office, in preference to juniors, outsiders and contract labourers. The letters relied upon by the applicant <sup>and</sup> referred to earlier in para 2 do not pertain to engagement in Faridabad Office, nor have the applicants so stated that these letters are orders for engagement of persons in the Faridabad Office.

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6. In view of the above, the applicants have no claim for agitating the matter once again and I agree with the view of the respondents that this OA is barred by the principles of res judicata inasmuch as that there should be an end to litigation and the applicant should not come again and again on the same issue. OA is accordingly dismissed being without merit. No costs.



(S.A. Singh)  
Member (A)

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