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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.1057/2003

New Delhi, this the 30th day of January, 2004

HON'BLE MR. SARWESHWAR JHA, MEMBER (A)

Shri Raj Kumar, aged about 25 years,
Son of Shri Vishwanath Paswan,
Resident of 17/1473, Kalyan Vas,
Delhi - 110 091

.... Applicant
(By Advocate : Shri Surinder Singh)

V e r s u s

1. The Directorate of Education,
Old Secretariat, Delhi
2. Dy. Director of Education,
Disst. South, Defence Colony,
New Delhi
3. Department of Finance,
Ministry of Finance,
Govt. of NCT, Delhi
4. Principal,
Govt. Boys Middle School,
Sarai Kale Khan, New Delhi - 13

.... Respondents
(By Advocate : Shri Mohit Madan, proxy for
Mrs Avnish Ahlawat)

O R D E R

The applicant has preferred this Original Application against the orders of the Principal, Government Boys Middle School, Sarai Kale Khan, New Delhi, dated the 20th December, 2002 whereby his services as part-time waterman have been dispensed with w.e.f. the same date (Annexure A-1). He seems to have been appointed initially on 15.4.1999 and his services were placed at the disposal of the Government Boys Middle School, Sarai Kale Khan w.e.f. 28.7.2000. The services of the applicant had been dispensed with earlier also vide the orders of the Deputy Director, District South, Defence Colony, New Delhi, dated 28.7.2000 when he had been rendered surplus. He had rendered a total

Surinder Singh

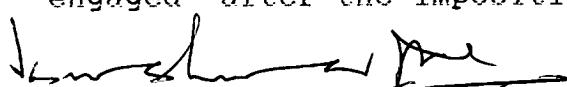
service of about three and a half years with the respondents before he was declared surplus without assigning any ostensible reason. He has accordingly prayed that the impugned order dated 20.12.2002 be set aside and the respondents directed to continue him in service w.e.f. 21.12.2002 and pay him the back-wages.

2. The respondents have, however, countered the arguments of the applicant and have said that inspite of instructions having been issued regarding engagement of part-time workers against Group 'D' posts, some of such workers have been employed/continued by the Principals not as per rules. Having detected part-time workers as having been employed not as per rules, directions were issued by the respondents to the authorities concerned to remove such part-time workers as have been engaged in contravention of the various Office Memoranda in this regard. They have further submitted that the part-time workers are actually seasonal workers whose services are, in fact, utilized only for 2 - 3 hours over a period of six months in a year from 1st March to 30th April and then from 1st July to 31st October and that too in Schools where enrolment of students is 800 or more. Group 'D' posts are filled up 50% by direct recruitment and 50% from amongst the part-time workers who have served as part-time workers in a local Office of the Delhi Administration or Directorate of Education in accordance with the rules for at least five years. They also take necessary steps to regularise part-time workers from time to time. A seniority list of such part-time workers is also maintained at the Directorate level. The total number of part-time workers awaiting regularisation in

Subashini

accordance with the rules since 1989 is more than 1000. Presently, they are considering Water Women appointed upto December, 1989, Sweeper (Female) upto 1992 and Mali, Waterman and Sweeper upto 1993 for regularisation against 50% quota. A reference has also been made by them to the directions of the Hon'ble High Court given from time to time to improve and maintain absolute cleanliness in the Schools while disposing of a number of public interest petitions on sanitation conditions and cleanliness in the Schools and it has been submitted that, keeping in mind the observations made by the Hon'ble High Court and as a matter of policy, a decision was taken by them on 21.8.2000 to provide security and sanitation services in the Schools through private agencies. Such agencies are required to maintain cleanliness in the Schools all the 24 hours. The respondents have admitted that inspite of there being a ban on engagement of part-time workers, some of the Zonal Offices have engaged part-time workers dehors the Rules and the same have been dis-continued after 21.10.1998. It appears that ban on engagement of part-time workers has been imposed from the said date, i.e., 21.10.1998 also for the reason that there was surplus staff in Organisations like DSMDC, DEDA etc. and who are still awaiting absorptions in the Government of NCT of Delhi and its undertakings/autonomous bodies. At this stage, it has also been mentioned that no new part-time workers could have been engaged without first absorbing the surplus staff of these Organisations.

3. The applicant, according to the respondents, was engaged after the imposition of the ban and as such has 'no



legal right to continue as a part-time worker. Moreover, services of part-time workers engaged during 1999-2000 were also not continuous. They were for the period of 1st March to 30th April and then from 1st July to 31st October. It has been very clearly stipulated in their appointment letters that their services were purely temporary and that the same could be terminated without prior notice and that they would have no right for regularisation. In pursuance of their policy decision to out-source the cleaning work, the Department has already started the process of engaging private agencies for providing security, sanitation and cleanliness services in the Schools.

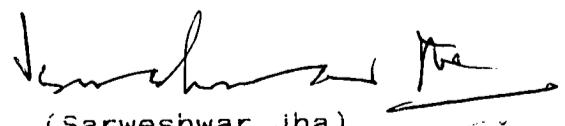
4. There is also a rejoinder filed by the applicant to the reply filed by the respondents in which it has been submitted that the applicant had no personal knowledge of some of the things which the respondents did in regard to engagement of part-time workers and that the argument that the applicant was engaged only for 2 - 3 hours a day and the work was only seasonal is an after thought on their part. It has been contended by the applicant that he was deployed in Middle Schools which worked for 10 months in a year and are off only for two months and as such his services were not utilised for six months or shorter periods only. He has accordingly alleged that the respondents have arbitrarily not regularised his services and instead terminated the same illegally.

5. It is observed that similar cases have been heard and decided by the Tribunal earlier in OA No.2000/2003 and OA No.1353/2003 and OA No.1161/2003, all of them having been



decided on the 17th December, 2003. Copies of the said decisions are available on record. It is observed from the said decisions that the fact that there was a ban on engagement of part-time workers as issued on 21.10.1998 had been kept in view by the Tribunal while holding that the engagement of the applicants in the said OAs was void ab initio. A reference has also been made to the fact that there was an endeavour on the part of the respondents to first absorb the surplus staff of the Organisations like DSMDC, DEDA etc and that no fresh engagement could be made. That being the case, any engagement of part-time workers made by the respondents was found to be in clear violation of the ban.

6. It is observed that the facts of the matter as submitted in the present OA also are identical. In this case also a reference has been made to the fact that there was a ban from 21.10.1998 and that there was a decision to absorb first the surplus staff of Organizations like DSMDC, DEDA etc. and that no fresh engagement of such staff was to have been made. It is also a common knowledge that there is a policy decision to out source services like security and cleaning and as such such staff are not to be engaged by the Departments concerned. Under these circumstances, I do not see any reason nor any justification warranting any departure from the views/decisions taken by the Tribunal earlier in the similarly placed cases. Having regard to the contentions of the parties and also the facts and back-ground of the case, I do not see any merit in the case and accordingly the OA stands dismissed.


(Sarweshwar Jha)
Member (A)

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