

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2101/2003

New Delhi this, the 20th day of May, 2004

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

1. Naresh Kumar
L-10, Mohan Garden
Rama Park Road, New Delhi
2. Raghuvinder Singh
310, Vill. & PO Mitraon, New Delhi
3. Vijay Paswan
B/5, DDU Hospital
Hari Nagar, New Delhi .. Applicants
(Shri S.N. Singh, Advocate)

VERSUS

Govt. of NCT of Delhi, through

1. Inspector General of Prisons
Central Jail, Tihar, New Delhi
2. Director General (Prison)
Central Jail, Tihar, New Delhi .. Respondents
(Shri Vijay Pandita, Advocate)

ORDER

Applicants claim that have been working as Laboratory Technician/Radiographers since 1996 on daily wage basis. They have, alongwith some other applicants, earlier filed OA 1479/2000 seeking regularisation and the said OA, alongwith other connected OAs, was disposed of on 6.7.2001 with the direction to the respondents to prepare a scheme for absorption/regular employment of the applicants therein. Respondents filed CW No.6904 before the Delhi High Court against the aforesaid Tribunal's order and Court has stayed the said order. The matter is still pending before that Court.

2. In the meantime respondents have terminated the services of some of the similarly situated persons who have also filed OAs before this Tribunal and they are all

ba

16

pending before this Tribunal. Faced with such a situation, applicants apprehend that their services also would be terminated at any time. Thus they have filed the present OA seeking to restrain the respondents from dispensing with their services and engaging freshers in their place. On 26.9.2003 an interim order was passed by this Tribunal to maintain status quo as of that date and the same is continuing.

3. Respondents in their reply have stated that the applicants have rendered their services in Jail Hospitals on voluntary basis as Non-Govt. Officials (NGOs) and are paid only conveyance charges for which they have never objected. Applicants have not been legally appointed/selected under the RRs and no appointment orders have been issued to the NGOs. Citing the case of **K. Grih Lakshmi Srivastava Vs. Director/Chief Engineer, Rural Engineering Services & Ors. 1999(2) ATJ-331**, they have stated that judicial process cannot be utilized to support mode of recruitment dehor the rule and regularisation can be made as per rules and that courts could not issue direction for regularisation. While the pendency of petition before the High Court (supra) is not denied, they have stated that OAs filed by similarly placed persons, referred to by the applicants in their OA, have been dismissed by this Tribunal on various dates. Thus these decisions of the Tribunal are binding on them. Respondents have also placed reliance on the judgement of Supreme Court in **KVS Vs. A.K.Dass 2000(4)**

16

5

R

503 wherein it has been held that "appointment made by the incompetent person - termination of such officer - observation of natural justice held not obligatory."

4. It is further stated by the respondents that one more OA 55/2000 filed by Rajender Prasad Singh and others, similarly situated persons, has been dismissed by this Tribunal on 16.8.2000. Writ petition No.5970/2000 filed by these applicants was dismissed by the Delhi High Court on 4.12.2000. In view of this position, the present OA is not maintainable and be dismissed accordingly.

5. I have heard the learned counsel for the applicants and perused the records.

6. Applicant's counsel has produced a catena of judgements touching upon the subject of resjudicata. However, I feel that they would not support the case of the applicants as the issue involved herein is not the question of resjudicata but disengagement of persons engaged on voluntary basis who were being compensated by payment of conveyance allowance out of the Prison Welfare Fund. No wages/salary was being paid by them out of public funds.

7. I find that a large number of OAs filed by similarly placed persons seeking identical reliefs have been dismissed by the Tribunal and they have attained finality. That apart, stay granted by the Delhi High

Decd

18

4

Court against Tribunal's order in OA 1479/2000 has not been vacated so far. Even otherwise, the direction in that OA was only to prepare an appropriate scheme. Therefore I am bound by the decisions of the Tribunal in the OAs filed by similarly situated persons and I have no reason to take a different view.

6. In view of this position, I find no merit in the present OA and the same is accordingly dismissed. Interim order is merged with the main order. No costs.

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

/gtv/