

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2239/2003

Tuesday, this the 9th day of December, 2003

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

Raj Singh son of Shri Bhim Singh
House No.56, Village & PO Mangolpur Khurd
Delhi-83

..Applicant

(By Advocate: Shri Apurb Lal)

Versus

1. Director General
ICMR
Ansari Nagar, Post Box 4508
New Delhi
2. Director
Institute of Pathology (ICMR)
Safdarjung Hospital
Post Box No.4909,
New Delhi-29

..Respondents

(By Advocates: Shri P.P.Khurana, senior counsel
and Ms. Seema Pandey, learned counsel
is along with him)

O R D E R (ORAL)

Shri Kuldip Singh:

The applicant has filed this OA seeking the relief of quashing of impugned order dated 8.8.2003 and also seeks a direction to the respondents to grant the benefit of past service rendered by him from 25.9.1982 to 11.5.1987.

2. The facts in brief are that the applicant has been working as Laboratory Cleaner/Attender on daily wage basis during the said period from 25.9.1982 to 11.5.1987 and thereafter probably he had been disengaged. Then he filed a writ petition, being CWP-1393/88, before the Hon'ble High Court to seek a regular appointment. Vide order dated 4.5.1998, the Hon'ble High Court directed to respondents as under:-

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"5... Accordingly, in the facts and circumstances of the case and following the directions given by the Supreme Court in the aforesaid cause I issue a direction to the respondent Institute that as and when vacancy arises against a regular class IV post the case of the petitioner would be considered for regular appointment in accordance with the provisions of the Recruitment Rules alongwith other candidates giving weightage to the past services of the petitioner. While considering the case of the petitioner age bar, if any, shall not be made applicable. The facts that the petitioner belongs to Scheduled Caste category shall also be considered by respondent No.2. With the aforesaid directions and observations the writ petition stands disposed of."

3. In pursuance of the order passed by the Hon'ble High Court, the applicant had been appointed vide the Memorandum No.2276 dated 31.1.2001 to the post of Attender. The applicant now seeks that the period for which he had worked on daily rated basis that benefit should be given to him. He had made a representation to the respondents which was rejected vide letter dated 8.8.2003 which says that for considering the applicant for regular appointment, the past service rendered by him was taken into consideration and the benefit for the purpose of recruitment was given to him. The applicant, however, claims that he should be given the benefit as some of his juniors have been appointed earlier than him. In order to assail the impugned order, the applicant has also alleged that the respondents ought to have given the benefit of past service but the respondents have failed to give the same, though there was no observations by the Hon'ble High Court that the applicant was not entitled for the benefit of the past service.

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4. We have heard the learned counsel for the parties and have gone through the record. As regards the directions given by the Hon'ble High Court are concerned, it simply says that "the petitioner would be considered for regular appointment in accordance with the provisions of the Recruitment Rules along with other candidates giving weightage to the past services of the petitioner. While considering the case of the petitioner age bar, if any, shall not be made applicable. The fact that the petitioner belongs to Scheduled Caste category shall also be considered by respondent No.2". It is also pertinent to mention here that the Hon'ble High Court had also stated in its order that directing the respondents that as and when vacancy arises against a regular class-IV employee, the case of the applicant shall be considered, meaning thereby the applicant shall be considered for a vacancy which had to become available with the respondents. So, the applicant was duly considered in accordance with the directions of the Hon'ble High Court. For the purpose of the recruitment of the applicant, the respondents have categorically stated in paragraphs 4.15 and 4.16 of the reply that the benefit of the past services rendered by the daily wagers had been given to the employees, including the applicant. The Hon'ble High Court's order does not envisage that any other type of benefit for past services was to be given to the applicant, who ~~are~~^{was} to be recruited after having rendered service on daily rated basis. Nor is the applicant clear in his mind as to what sort of benefit he is asking for. As per the directions issued by the Hon'ble High Court, the benefit of the past services was only for the purpose

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of consideration of the applicant for recruitment as a class-IV employee, which had been duly given. Therefore, no interference is called for from this Tribunal.

5. OA being without merit must fail and is accordingly dismissed. No costs.

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

/sunil/

K. Naik
(Kuldip Singh)
Member (J)