

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2682/2003

New Delhi, this the ~~28~~ ²⁷ day of June, 2004

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

Gajanandan
House No.643, Malkapur Kuie
Rangpuri Pahadi, New Delhi .. Applicant
(Ms. Anu Mehta, Advocate)

versus

Union of India, through

1. Secretary
Min. of Human Resources Development
Shastri Bhavan, New Delhi
2. Director General
Archaeological Survey of India
New Cantt. Road, Dehradun
3. Dy. Superintendent
Archaeological Survey of India
Safdarjung Tomb, New Delhi .. Respondents

(Shri D.S.Mehandru, Advocate)

ORDER

Applicant had earlier filed OA 164/2002 seeking grant of temporary status and regularisation thereof. That OA was disposed of on 18.9.2002 holding that the applicant is not entitled for grant of temporary status with the observation that if the Union of India formulates any scheme on some future date then his case could be considered as per the observations made by the apex court. Applicant claims that he was engaged as casual labour by the respondent-department w.e.f. 3.8.1992 and was disengaged in October, 2003. By the present OA, he seeks re-engagement and grant of temporary status/regularisation thereof as according to him hehad put in more than 240 days in a year and his case is covered by the 1993 Scheme of DoPT.

done

2. Counsel for the respondents contested the case and has denied the contentions of the applicant. He contends that the applicant did not work during 1993, 1994 and 2001. During the years 1995 to 2000 he had not worked for 280 days as alleged by him and he was disengaged in December, 2001. According to the counsel, the Chemistry Branch of ASI takes up short term time-bound project work of casual and intermittent nature after chemical preservation of the monuments. These project works are executed against approved estimates of different nature requiring different categories of labour for brief spell of time. As soon as the project is over, services of such casual labours are disengaged. In this connection, he has drawn my attention to the decision of the Supreme Court in Executive Engineer, State of Karnataka Vs. K. Somasetty AIR 1997 SC 2663 in which it has been held that "A person employed on daily wages in a project of the Government can be discharged on closure of the project; he is not entitled to continuity of service". That apart the applicant was not performing any duty of perennial nature but only need-based work.

3. The counsel submitted that since it has already been held by the Tribunal in OA 164/2002 that the applicant was not entitled for grant of temporary status in view of the judgement of the apex court in UOI Vs. Mohan Pal 2002(2) ATJ 215, the applicant cannot seek the same relief again by virtue of the present OA. According to him, respondent-department has not formulated any scheme as observed in OA 164/2002 and therefore, in the absence

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of any scheme or any new project, the question of re-engagement of the applicant also does not arise. I find force in this contention.

4. In the result, having regard to the decisions of the Supreme Court (supra) coupled with the fact that the respondent-department has not formulated any scheme to consider cases of those like the applicant here, I find no merit in the present OA which deserves dismissal. I order accordingly. No costs.

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

/gtv/