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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 3111 OF 2003
M.A. No. 2693/2003

New Delhi, this the 29th day of December, 2003

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

1. Shri Jai Kishan S/o Ballu Ram,
R/o Chati Aulla,
P.O. Panchi Jattan,
Tehsil and Distt. Sonapat (Haryana)
2. Ram Lal S/o Shamlal,
R/o IA-119, Pappan Kallan,
Sector-7, Palam,
Delhi-110 054

.....Applicants

(By Advocate : Shri V.P.S. Tyagi)

Versus

1. Union of India (through Secretary)
Minister of Defence,
South Block,
New Delhi.
2. The Controller General of Defence Accounts,
West Block-V, R.K. Puram,
New Delhi.
3. The Controller of Defence Accounts (R & D),
L-Block,
New Delhi.
4. Dy. Controller of Defence Accounts,
(Dy. CDA) (R & D) Met Calf House,
Delhi- 110 054

.....Respondents

ORDER ((ORAL))

This application under section 19 of the Administrative Tribunals Act, 1985 has been filed claiming the following reliefs:

(a) To issue an order and direction directing the respondents to give preference to the applicants over the fresher to whom they want to engage an regular group 'D' post without insisting to be sponsored through employment exchange.

(b) To issue an order and direction directing the respondents to consider the case of applicants for absorption in group 'D' Post under the DOPT scheme of 1998.

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(c) To pass any further order of direction as deemed fit and proper in the facts and circumstances of the case.

(d) To award cost in favour of the applicants against the Respondents.

2. It is claimed that the applicants were initially engaged as Casual Labourers in the month of May, 1994 for a period of 89 days. It is further claimed that inspite of having worked for several years their services were terminated in the month of March, 2001. Aggrieved by that order, the applicants had initially filed OA No. 1214/2001 which was disposed of by order dated 14.5.2001 with direction to "the respondents to consider the claim of the applicants for reengagement as and when work of a casual nature becomes available in their organisation in preference over juniors/outiders/frehers". It appears that the applicant had filed another OA No. 2065/2002 which was disposed of by order dated 20.8.2002 with similar order as follows:-

"Counsel for respondents submits that at present they do not require continuation of casual workers, i.e., the applicants. Counsel for respondents had also made a statement that whenever department shall engage casual labour applicants will be given preference to freshers and outsiders."

3. In spite of the two orders of this Tribunal as stated earlier, the applicants have again filed this OA claiming that the action of the respondents seems to be arbitrary and discriminatory. Another ground

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taken in this OA is that the applicants should have been regularised and absorbed in Group 'D' post in preference to the freshers.

4. During the course of argument, the learned counsel stated that three Group 'D' posts were released by order dated 22.11.2000 (Annexure A-5) and the applicants could have been considered against those posts. Learned counsel also stated that the applicants were entitled to the benefits as provided in Government of India, DOP&T's Scheme, 1998.

5. After hearing learned counsel of the applicants, this Tribunal is of the opinion that the grounds advanced in support of this OA are not maintainable. This Tribunal had already passed orders on 14.5.2001 in OA No.1214/2001 as well as on 20.8.2002 in OA No.2065/2002. If the applicants were not satisfied by those orders, they should have taken recourse to remedies available to them in law. The repeated OAs are uncalled for when the issue is the same and there is no change in the facts of the case. Merely, because the OAs were disposed of and the applicants chose to file fresh representation, it will not give them fresh cause of action unless there are sufficient grounds in their favour. There is nothing on record that any other casual labourers were engaged ignoring orders of the Tribunal. So far as the claim of the applicants for appointment in Group 'D' posts released by order dated 22.11.2000 (Annexure A-5) is concerned, the applicants, prima facie, were not eligible and in any case those vacancies were to be filled up in March 2001. If the applicants wanted the



same relief, they should have agitated the same in their OA No.2065/2002 which was disposed of on 20.8.2002. The claim of the applicants is apparently barred by res judicata or constructive res judicata.

6. For all these reasons mentioned in preceding paragraph this OA does not survive for consideration and, therefore, the same is disposed of at admission stage without notice to the respondents.

7. The OA is disposed of without any order as to the costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

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