

(26)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

RA No.133/2004  
in  
OA 3097/2003

New Delhi, this the 25<sup>th</sup> day of July, 2005

Hon'ble Mr. S. K. Malhotra, Member (A)

1. Suresh Kumar,  
S/o Shri Bal Kishan,  
Resident of : S-147/194, Khan Market,  
Humayun Road, New Delhi
2. Krishan Kumar Rajpur,  
S/o Shri Satya Parkash,  
R/o : Qr. No.226, Sector-4,  
R.K. Puram, New Delhi
3. Gajinder Partap Pal,  
S/o Shri Raja Ram Pal,  
R/o : 2184, Lodhi Road Complex,  
New Delhi  
(By Advocate : Shri B.B. Raval) ... Applicants

Versus

1. Union of India  
Through : Secretary,  
Ministry of Environment & Forests,  
Paryavaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi – 110 003
2. Joint Secretary,  
N.A.E.B,  
Ministry of Environment & Forests,  
Paryavaran Bhawan, CGO Complex,  
Lodhi Road, New Delhi – 110 003
3. Deputy Inspector General of Forest,  
Ministry of Environment and Forests,  
Paryavaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi – 110 003. .... Respondents  
(None for respondents)

**O R D E R**

By Hon'ble Mr. S.K. Malhotra:

The present Review Application has been filed by the applicants with the prayer to review the order dated 11.3.2004 passed in OA No.3097/2003.

2. In the Original Application, the applicants who were daily rated casual labourers, had requested that the respondents be restrained from taking any action which would amount



to termination of their services. During the course of discussion in the OA, the learned counsel for the respondents had stated that neither any junior to the applicants has been regularized to Group "D" post nor the applicants' services have been terminated. The OA was accordingly disposed of, without giving any relief to the applicants.

3. In the present Review Application, it has been stated that there are certain errors apparent on the face of records in the above order dated 11.3.2004 justifying a review. The grounds taken are that in view of the statement made by the learned counsel for respondents that neither the services of the applicants have been terminated nor any junior has been regularized, the OA should have been disposed of as infructuous. Secondly, the applicants were eligible for grant of temporary status as they had completed 206 days per annum. The respondents had also not given them the benefit of a paid holiday after six days of service. The applicants were also eligible to be considered for Group 'D' post against 75% quota of open market recruitment. It has also been brought out that the judgement of the Hon'ble High Court of Delhi in the case of **Yogendra Prasad** has not been correctly interpreted by the Tribunal and another judgement in the case of **State of MP and Another vs. Dharam Bir, 1998 (6) SCC 165** has been wrongly interpreted.

4. The respondents have filed their counter reply in which they have stated that the Review Application deserves to be dismissed as no error apparent either of law or of fact on the face of records has been pointed out. In so far as the applicants are concerned, they were engaged as Casual Labourers for seasonal, occasional and intermittent nature of work as and when needed. They were continued in casual employment upto 31.3.2004 based on the stay granted by the Tribunal which was vacated with the disposal of the OA vide order dated 11.3.2004.

5. I have heard Shri B.B. Raval, learned counsel for the applicant. Nobody was present on behalf of respondents. Even on the last date of hearing nobody was present. I, therefore, proceed under Rule 16 of CAT (Procedure) Rules, 1987 to deal with the case.

6. I have carefully examined the order dated 11.3.2004 of the Tribunal and have also gone through the pleadings in the Review Application. The point raised in the R.A. that the



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OA should have been disposed of, as having been rendered infructuous is not such an issue which requires review of the order. The fact remains that the O.A. was disposed of without giving any relief which virtually means dismissal. It is immaterial whether the OA is dismissed or rendered infructuous. During the course of the argument, the learned counsel for the applicant conceded that the applicants were engaged only during the year 1999-2000 and as such are not eligible for grant of temporary status under the Scheme circulated by the DOP&T in 1993. The other point raised in the RA regarding benefit of paid holidays was neither raised in the main O.A., nor it was discussed. Whether interpretation of the judgements is correct or not also cannot be the subject matter of a review application. The learned counsel for applicants also brought to my notice that the respondents-department have issued a Circular dated 12<sup>th</sup> July, 2005 asking the private contractor to provide the services of casual labourers in the Department which is illegal. In case, the applicants are aggrieved by this action on the part of the respondents, they can challenge it by filing a fresh O.A.

7. It is thus apparent from the points raised in the Review Application that no mistake, much less a glaring mistake, has been pointed out. An attempt has been made by filing of this RA to re-open the issue on merit, which is not permissible under the Rules. As explained above the points raised by him that the OA should have been disposed of as infructuous or the applicants should have been allowed the benefit of paid holidays or they should have been considered for recruitment against Group 'D' post etc. cannot be construed as errors apparent on the face of the record, warranting a review of the order. The provisions of Rule-1 of the Order XLVII of the Code of Civil Procedure, 1908 are also not attracted in the present case.

8. In view of the above, the Review Application turns out to be totally misconceived and is accordingly dismissed.

*S.K. Malhotra*  
(S.K. Malhotra)  
Member (A)

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