

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD**

**Original Application No. 492/2019
Date of Order : 03.06.2019**

Between :

Sri P.Shekar, S/o late P.Venkaiah,
Aged 51 years OCC:- Gr `C` , Beldar working in O/o
Executive Engineer, H.C.D. III, CPWD
Nirman Bhavan, Sultan Bazar, Koti,
Hyderabad. ... Applicant

And

UOI rep by its

1. The Director General
CPWD, Nirman Bhawan
New Delhi – 110011.

2. Special Director General
Southern Region, CPWD
Rajaji Bhavan, Basant Nagar Chennai.

3. Additional Director General (Hq)
Southern Region-I, CPWD
Rajaji Bhavan, Basant Nagar Chennai.

4. Chief Engineer, Southern Zone - 2
CPWD, Sultan Bazar, Hyderabad.

5. Superintendent Engineer
Hyderabad Central Circle-1, CPWD,
Hyderabad-95.

..... Respondents

Counsel for the Applicant	...	Mr. G.Pavana Murthy, Advocate
Counsel for the Respondents	...	Mr.B.Siva Sankar, Addl.CGSC

CORAM:

Hon'ble Mr.Justice L.Narasimha Reddy	...	Chairman
Hon'ble Mr. B.V.Sudhakar	...	Member (Administrative)

ORAL ORDER

[As per Hon'ble Mr. Justice L. Narasimha Reddy, Chairman]

The applicant herein was appointed as Beldar (Group-C) in Vijayawada Central Circle of CPWD through order dated 04.12.2007 and was put on probation. On completion of probation of two years, his services were regularized. It is stated that the applicant was extended the benefit of 1st MACP through office order dated 19.02.2018 w.e.f. 05.12.2017.

2. The Superintending Engineer, CPWD, Hyderabad - 5th respondent herein issued a show cause notice dated 23.04.2019 to the applicant requiring him to explain as to why the order of appointment dated 04.12.2007 be not cancelled and why, he be not reverted as casual worker. The same is challenged in this OA.

3. The applicant contends that once he became the permanent member of the service on being regularized, the 5th respondent has no power to take any steps for his reversion except by way of initiating disciplinary proceedings under CCS (CCA) Rules. It is also stated that the various reasons mentioned in the show cause notice are untenable, particularly when he was not the party in OA.839/2007 and the resultant proceedings, mentioned in the impugned notice.

4. We heard Mr.G.Pavana Murthy, learned counsel for the applicant and

Mr.Siva Sankar, learned standing counsel for the respondents.

5. It is true that generally, a permanent employee in a Government service cannot be reverted except by way of disciplinary proceedings initiated under the CCS (CCA) Rules and that the impugned show cause notice is not the one, issued as part of any disciplinary proceedings. The record however discloses that the very appointment of the applicant was under peculiar circumstances.

6. On finding the necessity to appoint 10 persons directly in the category of Beldar, steps were initiated to identify the candidates. The individuals, who were working on work charged basis, or on muster rolls, were arranged in the order of seniority and a provisional seniority list was prepared. After calling for objections, a list was prepared and seniors among them were chosen. Initially orders of temporary appointment were issued and thereafter the services of such persons were regularized.

7. In case the respondents have initiated the proceedings to revert the applicant on their own accord, things should have been different altogether. Some work charged employees and casual workers approached this Tribunal by filing OA.839/2007 complaining that the very procedure adopted for preparation of seniority list of selection of 10 candidates was improper. The said OA was allowed on 21.07.2010 and the seniority list dated 30.11.2007 was quashed. A specific direction was issued to the respondents to revise the seniority list, based

on number of days, the casual workers were engaged on Hand Receipt / Work order basis and to fill up the approved vacancies with the persons in the seniority list. In case the applicants were aggrieved by the same, they were at liberty to pursue further remedy, in accordance with law. Since the order passed in OA.839/2007 was not implemented, the applicants therein filed C.P.110/2012. Serious view, on the inaction, on the part of the respondents was taken, and a specific direction was issued. As a result of that, the impugned show cause notice was issued. It is stated that the reply has also been submitted by the applicant.

8. It is true that the Tribunal has power to interfere with the show cause notices if the circumstances warrant. However, the 5th respondent, who is the appointing authority, has every right to issue show cause, that too in the course of implementing the orders in OA.839/2007 and C.P.110/2012. Therefore, the ratio laid down in the judgements relied upon by the applicant namely ***Union of India and Ors. vs. Sh.Sarvesh Kaushal, Special Principal Secretary and Ors. 2005 (3) ATJ 535 and in the case of Union of India & Ors. vs. Sant Lal & Ors. Etc.Etc. in Civil Appeal Nos.175-176 of 2019 arising out of SLP (C) Nos.37798-37799 of 2013*** does not apply to the facts of the case. This is not a case where the notice is issued by an authority not vested with the power.

9. We are not inclined to interfere with the matter. It is needless to mention that the respondents shall take into account, the various directions issued by this Tribunal in OA.839/2007 and the representation submitted by the

applicant into account, while passing the final orders.

10. The OA is accordingly disposed of. There shall be no order as to costs.

(B.V.SUDHAKAR)
MEMBER(ADMN.)

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

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