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Court : Central Administrative Tribunal CAT Delhi

Decided On : Apr-07-2006

Judge : S Raju, C A Chitra

Appellant : Arvind Kumar Bansal

Respondent : Director Csir and Director ip

Judgement :

1. By virtue of the present OA, the applicant seeks to challenge the termination order dated 20.9.2000 and grant of benefit of the decision of the High Court in CWP No. 6032/2000 in N.K. Rawat v. Union of India and Ors.

2. Applicant was appointed on contractual basis in February 1995 as a Project Assistant and on an Advertisement dated 27.9.1996 for the post of Technician where number of posts were to be varied, applied for the said post. He appeared in the interview on 15.3.1997 and was appointed as Technician on a temporary basis under CSIR on 1.7.1998. On 6.7.1998, applicant's appointment letter was taken back and he was asked not to come to work. This led to filing of OA-197/99 before the Tribunal, which, on 21.3.2000, was disposed of whereby the applicant was allowed to continue in work. Accordingly, applicant re-joined his duty on 10.4.2000. On 22.5.2000, applicant was accorded all the benefits. Vide Memorandum dated 1.2.2000, a show cause notice was issued to the applicant as to his erroneous appointment, as no vacancy existed in Group II after filling up the two posts by the first two candidates. On reply, applicant's appointment was cancelled.

3. In OA-572/2000, which was filed by one Shri N.K. Rawat, who was in the same panel, an order was passed on 11.9.2001, which was challenged before the High Court by filing CWP No. 6032/2000 where the High Court restored back the appointment of the applicant. SLP No. 24580/2002 against High Court's order was dismissed on 10.1.2003. Hence the present OA whereby the applicant seeks extension of the benefit of this judgment.

4. On the other hand, learned Counsel appearing for the respondents referred to the decision of this Tribunal in OA-709/2004 dated 18.3.2005 in Seema Sharma v. Director and Anr. whereby the decision in N.K. Rawat's case (supra) was distinguished as the applicant therein had not approached the High Court, holding that merely because in another matter filed on behest of some similarly situated persons, grant of relief after long years would not be in consonance with law.

5. When equated with the aforesaid decision, learned Counsel for the applicant has been asked to distinguish the same. He stated that being in the same panel, a decision in N.K. Rawat's case (supra) covers the present case also.

6. In the above view of the matter, we agree with the findings recorded by the Single Bench in Seema Sharma's case (supra) and hold that the applicant has unsuccessfully challenged the termination order and as he had not filed the Writ Petition before the High Court, accord of benefit of the order passed in N.K. Rawat's case (supra) would not be available to him.

7. In this view of the matter, finding no merit in the present case, OA is accordingly dismissed without any order as to costs.

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