

Dharmender and Another Vs. Union of India and Others

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Court : Central Administrative Tribunal CAT Delhi

Decided On : Mar-27-2012

Judge : The Honourable Dr. Veena Chhotray, Member (a) & the Honourable Dr. Dharam Pal Sharma, Member (J)

Appeal No. : Original Application No.934 of 2012

Appellant : Dharmender and Another

Respondent : Union of India and Others

Advocate for Pet/Ap. : For the Applicants: Sachin Chauhan, Advocate. For the Respondents: -----

Judgement :

DR. VEENA CHHOTRAY:

1. This order is being passed in the OA at the admission stage itself after hearing the learned counsel for the applicants.

2. Through this OA, the following reliefs have been sought:-

“(i) To quash and set aside order 9.3.12 (colly) and further direct the respondents to engage the applicant for engagement as contractual employee in preference to the contractual employee who were employed subsequent to disengagement of applicant with all consequential benefits.

Any other relief which this Hon'ble Court deems fit and proper may also be awarded to the applicant.”

This is the third round of litigation.

3. As per the OA, the applicants had been engaged as casual labours under the Indian Institute of Mass Communication during the period 17.5.1999 till 23.2.2000. It is averred that their services had been discontinued by verbal orders. On approaching the Hon'ble Delhi High Court vide Writ Petition (Civil) No.2966/2000, the same got transferred to the Tribunal and on 6.5.2011 it was withdrawn by the applicants on the liberty granted to file a substantive OA. Under the RTI Act, the applicants came to know that during the period 1997 to 2011 the respondents had employed certain other persons as contractual employees. The names of these persons and the duties of their engagement were also mentioned in the information received under RTI. On this basis, the applicants represented to the authority for considering their cases for engagement on contractual basis.

As the same was of no avail, the OA No.22/2012 was filed challenging the inaction of the respondents for not considering the case of the applicants for engagement on contractual basis despite availability of work. Vide the Tribunal's order dated 4.1.2012, the OA was disposed with a limited direction to the respondent no.2 to consider the representation through a reasoned and speaking order. It was clarified that this direction was given without going into the merits of the case as well as without the prejudice to the rights of the respondents in any manner whatsoever. In pursuance of these directions, the Director General, Indian Institute of Mass Communication has passed a speaking order dated 9.3.2012 which is being challenged in the present OA.

4. The impugned order reveals that as per the records, the applicant No.2 had been engaged as Daily Wagers on 17.5.1999 for Farash work. However, this was without following the prescribed procedure of getting the applications sponsored from the Employment Exchange or making any other open advertisement. There was no formal selection exercise nor was this engagement against the sanctioned vacancies. Accordingly, the services had been discontinued. As regards the services of the other persons about whom the applicants had been raising

contentions on the basis of the information received under the RTI, it is mentioned that except one person, everyone else has been disengaged. The sole exception is stated to be the son of a deceased employee engaged on compassionate basis. Further, it is stated that a decision has been taken for outsourcing these services and now they are not making any direct engagement of daily wagers. Considering the initial engagements of the applicant not being in accordance with law and not conferring any right for continuous engagement or re-engagement as well as the other factors mentioned in this order, the request for reengagement has been declined.

5. Shri Sachin Chauhan, the learned counsel for the applicants would seek to impress upon the arbitrariness in the case of employing other persons on contractual basis at a subsequent point of time, disregarding the legitimate claims of the applicants.

6. We have carefully considered the averments in the OA and the submissions made by the learned counsel. Of the two applicants, the claims about having worked earlier under the respondent no.2 have not been found supported on the basis of record. Even in respect of applicant No.2 where he had worked for a limited period during the period 1999 to 2000, it was as a daily wager. Considering the detailed factors noted in this order, such a claim for continuance or for reengagement would not be tenable as per the law laid down by the Constitution Bench of the Hon'ble Supreme Court in Secretary, State of Karnataka and Ors vs Uma Devi {JT 2006 (4) 420}.

Resultantly, the OA is found to be devoid of merit and dismissed in limine.

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