

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE V.RAMASUBRAMANIAN
and
THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

W.P.No.1162 of 2015

D.Sivakumar

... Petitioner

Vs.

1. The Registrar
Central Administrative Tribunal
Madras Bench, Chennai - 104

2. The Union of India rep. By Flag Officer
Commander-in-Chief, Headquarters
Eastern Naval Command
Naval Base, Visakhapatnam

3. The Naval Officer
Naval Officer Incharge (TN & P)
Navy Office, Port Complex
Rajaji Salai, Chennai - 600 009

.... Respondents

Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent particularly the 1st respondent's impugned order dated 17.12.2013 made in O.A.No.1107 of 2012 and quash the same in respect of the petitioner alone and consequentially direct the respondents 2 to 3 to regularize the petitioner's service by considering an uninterrupted work days right from 1998 under the respondents 2 and 3 herein.

For Petitioner : Mr.R.Thanjan

For Respondents

2 and 3 : Mr.A.S.Chakravarthy S.C.C.G

ORDER

(Judgment was delivered by V.RAMASUBRAMANIAN,J)

The petitioner has come up with the writ petition challenging the rejection of an application filed by him along with 9 others before the Central Administrative Tribunal, Chennai seeking regularization of his services.

2. Heard Mr.R.Thanjan, learned counsel for the petitioner and Mr.A.S.Chakravathy, the learned Senior Central Government Standing Counsel for the respondents.

3. The petitioner was appointed as a Causal Labour in the year 1998 by the respondents 1 and 2. It appears that he was issued with identity cards and temporary entry pass from 10.06.1998.

4. In the year 2004, the petitioner and ten others filed an application in O.A.No.332 of 2004 on the file of the Central Administrative Tribunal. The said application was disposed of with a direction to the respondents to consider the claim of the petitioners and to pass orders.

5. As against the said order, the respondents 2 and 3 filed writ petitions in W.P.No.25081, 30604 and 33510 of 2005 on the file of this Court. The writ petitions were dismissed by a Bench of this Court by an order dated 14.11.2006, on the short ground that the direction of the Tribunal was in tune with the earlier orders.

6. The respondents 2 and 3 filed Special Leave petitions in S.L.P (Civil) Nos.23755 to 23757 of 2007. The Supreme Court dismissed the Special Leave Petitions by an order dated 06.09.2010.

7. Thereafter, the respondents passed an order dated 09.03.2011, refusing to grant temporary status and regularize their services. Aggrieved by the said order, the petitioner and others filed a contempt petition before the Tribunal. But the Tribunal, closed the contempt petition by an order dated 14.03.2011.

8. Challenging the order passed in the contempt petition, the petitioner and others filed a writ petition in W.P.No.26040 of 2011. But the said writ petition was dismissed by this Court by an order dated 11.04.2011.

9. Thereafter, the petitioner and nine others filed an application in O.A.No.1107 of 2012 on the file of the Tribunal seeking to set aside the order dated 09.03.2011 and for a direction to grant temporary status and regularization. This application was dismissed by the Tribunal by an order dated 17.12.2013. It is against the said order only one of the applicants has come up with the above writ petition.

10. It is seen from the claim made by the petitioner and others that it was based only upon a scheme framed by the Government on 10.09.1993. The entire claim of the petitioner was based upon the said scheme. But, unfortunately the Supreme Court

had interpreted the said scheme to be a one time measure and not an ongoing scheme. This was the ratio laid down by the Supreme Court in Brij Mohan Lal Vs. Union of India reported in (2012) 6 SCC 502.

11. Unfortunately the petitioner got appointed after 5 years of the said scheme. Therefore, the Tribunal rightly came to the conclusion that the benefit of the scheme cannot be extended to persons appointed after the scheme.

12. Two conditions ought to be satisfied for the grant of benefit of the scheme dated 10.09.1993. Even the first condition that the claimant ought to be in service as on that date was not satisfied. Granting temporary status and regularizing the services of casual workmen is not actually another method of recruitment. But when schemes are framed, persons working at the time of the introduction of the scheme may be entitled to claim under the scheme. There can be no claim de hors the scheme. Therefore, we find that the order of the Tribunal is in tune with the dicta laid down by the Supreme Court. Hence, it does not call for interference.

13. Therefore, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Registrar
Central Administrative Tribunal
Madras Bench, Chennai - 104
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Commander-in-Chief, Headquarters
Eastern Naval Command
Naval Base, Visakhapatnam
3. The Naval Officer
Naval Officer Incharge (TN & P)
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+ 1 cc to Mr.R.Thanjan, Advocate Sr.17748

+ 1 cc to Mr.A.S.Chakravarthy, Advocate Sr.17486

W.P.No.1162 of 2015

GR(CO)

EU 18.05.2015

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