

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WP(C) 1499/2016 & CM.6507-08/2016**

% **Date of Decision: 23rd February, 2016**

ROSHAN LAL **...Petitioner**
Through : Mr.Rajesh Kumar, Advocate

Versus

UNION OF INDIA & ORS **...Respondents**

Through : Ms.Shiva Lakshmi (CGSC) with Mr.Brajesh
Kumar, Advocate for respondents Noi.1 to 4

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAJMI WAZIRI

SANJIV KHANNA, J.

1. Roshan Lal by this writ petition impugns the order dated 6th February, 2015 dismissing his Original Application No.89/2015 on the ground of *res judicata*. The impugned order refers to an earlier OA No.1591/2012 filed by Roshan Lal for identical reliefs which was dismissed by the Tribunal by order dated 11th May, 2012. This order was challenged before the High Court, but the petitioner did not succeed. The petitioner had then filed a Special Leave Petition before the Supreme Court, which too was dismissed.

2. Having heard counsel for the parties, we are inclined to uphold the order of dismissal.
3. On 24th November, 1997 petitioner was appointed as a casual labourer against a group 'D' post in the Ministry of Law & Justice. The petitioner continued to work till 14th December, 1999 when his services were terminated by respondents by a verbal order. The petitioner had thereupon filed an OA.No.139/2000 before the tribunal, challenging the action of the respondents and their failure to re-engage him as casual labourer. Petitioner claimed temporary status relying upon DOP&T OM dated 10th September, 1993. This OA.No.139/2000 was disposed of vide order dated 8th May, 2000 directing the respondents to verify the records regarding the claim of the petitioner about his services and in case the petitioner would fulfil the terms and conditions of the DOP&T Scheme dated 10th September, 1993, respondents were to grant benefits due, including temporary status. Not satisfied with the order, the petitioner approached the High Court by way of a writ petition which was disposed of on 28th March, 2001 (copy of the aforesaid order is not placed on record. It is claimed that the High Court had granted liberty to the petitioner to approach the Tribunal). The petitioner filed another OA No.1362/2007 on 17th July, 2007, after a gap of six years, which was disposed of on 14th August, 2008 by a brief order. Cognizance was taken of submissions in the counter affidavit that the petitioner would be given preference over juniors and outsiders, as and when there was work. It was also noted that vacancies occurring in other offices were to be filled up by following the prescribed procedure. Petitioner

thereafter filed a Contempt Petition [CP No.28/2009], which was disposed of vide order dated 6th April, 2009 recording the statement of counsel for the respondent that in case of a vacancy, the claim of the petitioner for engagement and regularization would be considered, subject to his eligibility. The petitioner subsequently filed another Contempt Petition [CP No.338/2009], which was disposed of, by order dated 6th October, 2009. It noted that there was a vacancy for which the respondent had consulted DOP&T for directions, and in that view of the matter, notice of contempt was discharged. By letter dated 14th July, 2011 of the Ministry of Law & Justice, the petitioner was intimated about non-consideration of his case for regularization on two grounds. Firstly, the petitioner's factual assertion regarding vacancy in group 'D' post was denied in terms of an OM.No.1/1/2008-IC dated 24th December, 2008, as all erstwhile group 'D' posts were to be filled up in group 'C'. Secondly, as per Central Civil Service (Recruitment and Promotion) Rules, 2008, no further recruitment was to be made in group 'D' posts in future.

4. Aggrieved, the petitioner filed OA.No.1591/2012 which was dismissed vide order dated 11th May, 2012. This order upholds the contention of the respondent that the Ministry of Law had after consulting the DOP&T ascertained that it was non-feasible to grant employment to the petitioner. The inadvertent mistake made earlier would not confer any right.
5. The petitioner filed Writ Petition (C)No.1889/2013 before the High Court which was dismissed by a speaking order dated 25th April, 2013, relying upon *Union of India & Anr. Vs. Mohan Pal etc.* 2002 (4)

SCALE 216, wherein it has been held that OM dated 10th September, 1993 with respect to grant of temporary status was not an evergreen right, but a one time measure, applicable to a person working as a casual labourer as on 10th September, 1999. A Special Leave Petition filed before the Hon'ble Supreme Court against this order was dismissed. The prayer now made by the petitioner is hit by the principle of *res judicata* and OA.No.89/2015 has been rightly dismissed.

6. The contention of the petitioner is that two outsiders have been appointed as group 'D' employees. Mr.S.C. Torane was appointed on 8th October, 2003 in the Pay & Accounts Office of Ministry of Corporate Affairs at Mumbai and Mr.C. Parasuraman was appointed on 3rd September, 2003 in the Pay & Accounts Office of Ministry of Corporate Affairs at Chennai. The petitioner submits that the plea of *res judicata* in these circumstances, would not have any application.
7. It is difficult to accept the said contention. The petitioner is unable to give details of the selection and appointment of Mr.S.C. Torane and Mr.C. Parasuraman in the Pay & Accounts Office of Ministry of Corporate Affairs at Mumbai and Chennai respectively, in the year 2003. The said offices at Mumbai and Chennai are separate and distinct. The petitioner claims appointment in Delhi. Vague assertions and allegations made by petitioner themselves do not confer a fresh right or cause of action. Moreover, the order of the High Court dated 25th April, 2013 passed in Writ Petition (Civil) No.1889/2013 clearly negates any legal right, claim and secure employment, based on the OM dated 10th September, 1993. The writ petition has no

merits and the same is dismissed. There will be no orders as to costs.
All pending applications stand disposed of.

(SANJIV KHANNA)
JUDGE

(NAJMI WAZIRI)
JUDGE

February 23rd, 2016
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