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

+ **W.P.(C) No.8895/2017**

Date of Decision: 16th October, 2017

SHYAM SUNDER Petitioner

Through: Mr.R.K. Shukla, Adv.

versus

UNION OF INDIA & ORS. Respondent

Through: Mr.Vinod Diwakar, Adv. with
Mr.Akshay Agarwal, Adv. &
Mr.Ravindra, Adv. for Respondent
Nos.1 to 4.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present writ petition assails the order dated 5th February, 2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No.3767/2012, whereby the Tribunal has dismissed the Original Application (OA) filed by the Petitioner.

2. The Petitioner was engaged as a Khalasi on casual basis w.e.f 1st May, 1993, in the office of the Respondent No. 4 on daily rate basis and he served for 196 days upto 6th July, 1994. He was not re-engaged thereafter and in these circumstances he preferred an OA No. 1075/1995 before the Central Administrative Tribunal,

Delhi challenging his disengagement by the Respondents. The aforesaid OA was disposed of vide order dated 10th September, 1999 with a direction to the Respondents that if the Petitioner applies for re-engagement and if they require casual labor they would consider him for re-engagement in preference to those who had rendered lesser service prior to the date of his disengagement.

3. In the year 2000, the Petitioner filed a Contempt Petition No. 270/2000 alleging therein that the Respondents had engaged his juniors and had ignored him for re-engagement. Upon the Respondents denying the said averments of the Petitioner, the Tribunal vide its order dated 29th October, 2001 dismissed the contempt petition by reiterating its earlier directions that in the case the Respondents require casual laborers they should consider the Petitioner's case for re-engagement in preference to those who have rendered lesser service prior to the date of his disengagement and thereafter consider his case for grant of temporary status and eventually his regularization, in accordance with relevant rules and instructions on the subject.

4. Thereafter for over 11 years, the Petitioner took no steps and in July 2012, armed with a reply dated 27th February, 2012 to his RTI Application, he filed a fresh Contempt Petition No. 458/2012 alleging therein that he had learnt through the reply under RTI that

three of his juniors had been re-engaged by the Respondents. He alleged that the action of the Respondents in ignoring him for re-engagement was in violation of the order dated 10th September, 1999 passed by the Tribunal in his OA. The said contempt was dismissed as withdrawn on 4th July, 2012.

5. In these circumstances, the Petitioner then approached the Tribunal by filing OA No. 3767/2012 on 6th November, 2012, praying for a direction to the Respondents for implementation of the order dated 10th September, 1999 passed by the Tribunal in OA No. 1075/1995. Before the Tribunal, the Petitioner contended that the Respondents were liable for punishment under Section 340 of Code of Criminal Procedure for perjury, as they had misled the Tribunal by submitting false contentions and affidavits due to which his earlier Contempt Petition had been dismissed. The Tribunal, however, upon consideration of the submissions made by the counsel for the Petitioner and the Respondents, dismissed the OA. The Tribunal found that through the present OA, the Petitioner tried to re-argue the issues which already stood decided in his earlier OA No.1075/1995 decided on 10th September, 1999. The Tribunal further held that the allegations of perjury stated to have been committed by the Respondents in an earlier contempt

petition, could not now be decided in a subsequent OA and, therefore, found no merit in the same.

6. Aggrieved by the order passed by the Tribunal dismissing his OA, the Petitioner has preferred the present writ petition.

7. Before us, the learned counsel for the Petitioner has raised the same pleas as have been raised before the Tribunal. His main submission is that the Respondent had earlier informed the Tribunal in 2001 in response to his earlier Contempt Petition, that no person junior to the Petitioner had been engaged but he has now learnt that the said averment was wholly false. He, therefore, prays that the Respondents ought to be directed to re-engage the Petitioner. On a query by the Court as to how the OA was maintainable after more than 23 years of the Petitioner's disengagement, and that too after having worked only for 196 days in 1993-1994, the Petitioner's counsel is unable to give any satisfactory explanation except submitting that he had received the information under the Right to Information Act, only in the year 2012.

8. Learned counsel for the Petitioner has also urged that the Respondents have flouted the specific directions given by the Tribunal while allowing the OA. He reiterates that vide order dated 10th September, 1999, the Respondents were categorically

directed by the Tribunal that as and when the Petitioner applies for re-engagement and if they require casual labour, they would consider him for re-engagement in preference to those who had rendered lesser service prior to the date of his disengagement. He submits that the Respondents having violated these directions, the Tribunal ought to have directed them to re-engage the Petitioner.

9. Having considered the submissions made by learned counsel for the Petitioner, we find no merit in the petition. The Tribunal has, in our view, rightly held that there was no cause of action for filing the present Original Application. The undisputed position is that the Petitioner had been disengaged since 7th July, 1994 and he has never been re-engaged in these 23 years. He has not filed any document to show as to what steps were taken by him after 1999 or even after 29th October, 2001-when his contempt petition was dismissed, to either point out that any person with lesser service than him has been re-engaged, or that there was a requirement of casual labour by the Respondents. Even otherwise, we are of the view that the Petitioner having worked only for 196 days-and that too more than 23 years ago, could not now be allowed to re-agitate his right to be re-engaged as casual labour, by trying to rely on some information obtained under RTI-which too was applied for and obtained highly belatedly, to show that some persons who were

at one point of time junior to him, have been re-engaged. Pertinently, the Petitioner is unable to point out as to when those persons were re-engaged, and as to what steps he had taken to seek re-engagement with the Respondents except making a representation in the year 2011.

10. In view of the above, we find no infirmity in the order passed by the Tribunal. We find absolutely no merit in the petition and the same is dismissed.

(REKHA PALLI)
JUDGE

(VIPIN SANGHI)
JUDGE

OCTOBER 16, 2017/aa.