
(2002) 05 DEL CK 0258
In the Delhi High Court
Case No : CWP 3421 of 2000

Manoj Kumar

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 18-05-2002

Acts Referred:

Citation : (2002) 05 DEL CK 0258

Hon'ble Judges : S.B. Sinha, C.J;A.K. Sikri, J

Bench : Division Bench

Advocate : G.S. Labana, for the Appellant; H.K. Gangwani, for the Respondent

Final Decision : Dismissed

Judgement

S.B. Sinha, C.J.—This writ petition is directed against a judgment and order dated 30th July 1999 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No. 1657/1999 and the order dated 3rd May 2000 passed in RA No. 79/2000 whereby and whereunder the Original Application as also the Review Application filed by the petitioner were dismissed.

2. The petitioner was an employee of the respondent. He was discharged from service by an order dated 30th November 1996.

3. He was appointed on 1st May 1996 as a daily wager for a period of three months. His conditions of service as stated in his offer of appointment are:

"(i) Wages @ Rs. 71.35 per day shall be paid

(ii) office working hours shall be between 9.00 a.m. and 5.30 p.m.

(iii) appointment on daily wage basis does not confer any right whatsoever for regular appointment.

(iv) if the services of the daily wagers are found unsatisfactory at any time, their services are terminable without notice."

4. The services were extended up to 30th November 1996. Although, as noticed hereinbefore, he was discharged from service in the year 1996, he filed the Original Application in the year 1999.

5. The learned Tribunal, in terms of its order dated 30th July 1999, dismissed the application holding that the same was barred by limitation. A Review Application filed before the learned Tribunal, inter alia, on the ground that the cause of action was a continuous one, as has purported to have been held by this court in CWP No. 4071/99 (Shish Pal Singh v. Union of India & Anr.), was also dismissed.

6. Mr. Labana, learned counsel appearing on behalf of the petitioner, would contend that the learned Tribunal committed an error in dismissing the Original Application as also the Review Application in view of the fact that the question of limitation is covered by a decision of a Division Bench of this court in Shish Pal Singh (supra).

7. The question which arose for consideration in that case was as to whether an ad hoc employee who has worked for more than 190 days, was entitled to be enrolled in the Live Casual Labour Register maintained by Delhi Administration. The said Original Application was dismissed on the ground of being barred by limitation. The submission made by the learned counsel for the respondent made therein to the effect that the matter may be remitted to the Tribunal for deciding the same on merits while observing that the cause of action accrued to the petitioner when his juniors were engaged and he was left out, also observed that "even otherwise cause of action is a continuous one and hence the petitioner could not have been dismissed on the ground of delay."

8. A division Bench of this court doubted the correctness of the afore-mentioned observations of the Division Bench in Shish Pal Singh (supra) and referred the matter to a Full Bench in CW 450/2001. The Full Bench, by a judgment dated 7th May 2002 has since held:

"Keeping in view the decisions of the apex court, we are of the opinion that in a case of this nature, the cause of action would not be a continuous one.

To the afore-mentioned extent, the decision in Shish Pal Singh (supra) must be held not to have been correctly rendered and it is over-ruled accordingly."

9. In view of the decision of the Full Bench of this court that Shish Pal Singh (supra) does not lay down a good law, we are of the opinion that the impugned judgment cannot be sustained. Thus, the contention of the learned counsel for the petitioner cannot be accepted.

10. This writ petition being devoid of any merit is dismissed but without any order as to costs.