
(2012) 08 RAJ CK 0028

In the Rajasthan High Court

Case No : Civil Writ Petition No. 6757 of 2011

UOI of India and Others

APPELLANT

Vs

Heera Lal

RESPONDENT

Date of Decision : 07-08-2012

Acts Referred:

Citation : (2012) 08 RAJ CK 0028

Hon'ble Judges : Narendra Kumar Jain, J;Dinesh Maheshwari, J

Bench : Division Bench

Advocate : V.K. Mathur, for the Appellant; J.K. Kaushik, for the Respondent

Final Decision : Allowed

Judgement

1. With the consent and at the request of learned counsel for the parties we have heard the matter finally at this stage itself. After having heard the learned counsel for the parties and having perused the material placed on record, we have formed an opinion that fundamentally for the reason of the Central Administrative Tribunal, Jodhpur Bench, Jodhpur ("the CAT"), while passing the impugned order dated 13.05.2011 in Original Application ("OA") No. 271/2010, having not taken into consideration the binding decision of the Hon'ble Supreme Court in Secretary, Ministry of Communications and Others Vs. Sakkubai and Another, and so also having not considered several other aspects, the matter is required to be remanded for reconsideration. In this view of the matter, it does not appear necessary to dilate much on the facts of the case. Only a brief reference to the background aspects would suffice.

2. The applicant (respondent herein), working as Gardner in the office of Superintendent of Post Offices, Divisional Office, Sriganganagar, filed the OA leading to this writ petition while claiming the following reliefs:

(i) That impugned order dt. 15.9.2010 (Annexure-A-1), passed by the 2nd respondent, ordering withdrawal of the temporary status granted to him vide order dated 2.3.2009, may be declared illegal and the same may be quashed.

The respondents may be directed to grant all the consequential benefits including grant of temporary status from due date as per the verdict of Full Bench of this Hon''ble Tribunal in case of Smt. Sakkubai (A/6), supra

(ii) That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.

(iii) That the costs of this application may be awarded.

3. The case of the applicant for grant of temporary status under the scheme known as Casual Labourers (Grant of Temporary Status and Regularization) Scheme was essentially argued on the basis of the Full Bench decision of Central Administrative Tribunal at Hyderabad in the case of Smt. Sakkubai and Anr. Vs. The Secretary, Ministry of Communications, New Delhi & Ors : OA Nos. 912 and 961 of 1992. The CAT, relying on the said decision, found merit in the OA filed by the present respondent and accordingly, accepted the same; and, while setting aside the order for withdrawal of temporary status granted to him, ordered restoration of such status. The CAT also imposed costs of Rs. 10,000/- on the respondent No. 2 for the so-called unnecessary harassment of the applicant.

4. It has been pointed out at the outset by the learned counsel for the respondent that the decision in Smt. Sakkubai as rendered by the Full Bench of the Central Administrative Tribunal at Hyderabad had, in fact, been a matter of appeal before the Hon''ble Supreme Court; and was not approved by the Hon''ble Supreme Court in the decision reported in Secretary, Ministry of Communications and Others Vs. Sakkubai and Another, while observing, inter alia, as under: -

10. The Tribunal, in our view, was not right in coming to the conclusion that the Scheme for conferring temporary status on fulltime casual labourers is also applicable to part-time casual labourers. In view of the clarification which has been made by the learned counsel for the appellants, we do not find it necessary to give any further directions.

5. The learned counsel for the respondent though has not disputed the binding decision of the Hon''ble Supreme Court in the matter but submitted that in the fact situation of the present case, several other grounds were taken in the OA, which have not been considered by the CAT essentially for its reliance on the aforesaid decision in Smt. Sakkubai but without noticing that the same had been over-ruled by the Hon''ble Supreme Court.

6. In view of what has been noticed above, so far the impugned order is concerned, the same being based on over-ruled decision, cannot be approved and is required to be set aside. However, when other aspects of the matter have neither been dilated upon nor considered by the CAT, it appears in the fitness of things and in the interest of justice that the OA as filed by the applicant-respondent (OA No. 271/2010) be restored for reconsideration by the CAT in accordance with law.

7. Accordingly, this writ petition succeeds and is allowed to the extent indicated above. The impugned order dated 13.05.2011 is set aside; and OA No. 271/2010 is restored for reconsideration by the CAT. The parties through their respective counsel shall stand at notice to appear before the CAT in the aforesaid OA on 18.09.2012.