

(2008) 02 JH CK 0008

Jharkhand High Court

Case No: None

Amriul Ansari

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision: Feb. 5, 2008

Citation: (2008) 1 JCR 631

Hon'ble Judges: M. Karpaga Vinayagam, C.J; Dilip kumar sinha, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

M. Karpaga Vinayagam, C.J.

Mr. Amriul Ansari, who was working as a peon in the Kendriya Vidyalaya, the respondents, for three years, was stopped from service. Against the same, the petitioner earlier filed an application--O.A. No. 131 of 2002 before the Central Administrative Tribunal seeking for his reinstatement and regularisation. The Tribunal, after hearing the petitioner, rejected his prayer, however, directed the Kendriya Vidyalaya to consider his fresh appointment in the "D" Group if any vacancy arises. With that order, the petitioner approached the Kendriya Vidyalaya again, but the said request was rejected by the Kendriya Vidyalaya stating that vacant post of Group "D" are being obtained through private agencies as per rules and as such the petitioner was advised to contact the private agency for his engagement for the post. As against the said order, the petitioner filed O.A. No. 258 of 2004 before the Tribunal complaining that direction, earlier given by the Tribunal, has not been complied with. The Tribunal dismissed the said petition on 12.10.2004 holding that the rejection of the request by the Kendriya Vidyalaya for re-engagement and directing him to contact the private agency to get re-engagement to Kendriya Vidyalaya as per rule justified.

2. The petitioner has filed the fresh petition, challenging the said order dated 12.10.2004.

3. According to the counsel for the petitioner, the Kendriya Vidyalaya ought to have considered the petitioner claim for reinstatement as per the direction of the Tribunal and ought not to have directed the petitioner to contact through the private agency, and in such the order of rejection by the Kendriya Vidyalaya, which was confirmed by the Tribunal by order dated 12.10.2004 is wrong.

4. We have heard the counsel for the petitioner and gone through the orders referred to above.

4.1 Originally the petitioner approached the Tribunal in O.A. No. 131 of 2002 for a direction to the Kendriya Vidyalaya to reinstate the applicant-petitioner on the post of Peon. The Tribunal accepting the stand taken by the Kendriya Vidyalaya that the applicant was engaged only on daily wages from time to time as per the need of the vidyalaya and he was not recruited as per the procedure of Recruitment Rules of Group "D" employees, has held that the applicant-petitioner has no right for claiming regularisation or reinstatement and rejected his prayer. However the Tribunal directed the Kendriya Vidyalaya - the respondents that if the Kendriya Vidyalaya intend to recruit fresh casual labourer on daily wages basis the case of the applicant may be considered by giving him the preference.

4.2 On the basis of the said order the petitioner approached the Kendriya Vidyalaya again for appointment. The Kendriya Vidyalaya sent a reply letter dated 30.3.2004 informing the petitioner that as per rules in force in Kendriya Vidyalaya Sangathan services of Group "D" are obtained through private agencies and therefore, he may approach private agency for appointment.

4.3 This was challenged by the petitioner in O.A. No. 258 of 2004 before the Central Administrative Tribunal. The Tribunal, after hearing the counsel for the parties, by the order dated 12.10.2004, did not find any infirmity in the said letter of the Kendriya Vidyalaya and directed the applicant-petitioner to contact the private agency for his engagement as advised by the respondents.

4.4 Thereupon, the petitioner, instead of approaching the private agency, thought it fit to file another application before the Tribunal in O.A. No. 280 of 2005 to seek for the very same relief. Ultimately O.A. No. 280 of 2005 was dismissed as withdrawn by order dated 22.12.2005. Thereafter this writ petition has been filed.

4.5 The perusal of the order in O.A. No. 131 of 2002 dated 10.12.2003 and the order in O.A. No. 258 of 2004 dated 12.10.2004 would clearly indicate that finding has been given by the Tribunal that the petitioner has no right for claiming reinstatement as he was not appointed under the procedure of the Rules in force.

4.6 In the first order, the Tribunal directed the Kendriya Vidyalaya to consider the case of the petitioner for engagement as a fresh appointment if the vacancy arises. In the meantime, the Kendriya Vidyalaya took a policy decision to engage the persons in Group "D" through private agency. Under those circumstances,

petitioner was directed to contact private agency. This direction was upheld by the Tribunal in O.A. No. 280 of 2005.

5. In this writ petition, the petitioner, still, claims that he has got a right for reappointment as he was working as a Peon in the Kendriya Vidyalaya for three years.

6. As indicated above, this question has already been decided by the Tribunal in the earlier application O.A. No. 131 of 2002 by order dated 10.12.2003. Admittedly, this order was not challenged. Therefore, the finding in the said order that he has no right for re-employment or reinstatement has become final.

7. Under those circumstances, the direction, which has been given by the Kendriya Vidyalaya as well as by the Tribunal in O.A. No. 250 of 2005 dated 22.12.2005 to the petitioner to contact private agency is, in our view, perfectly justified as there is no right for the petitioner to claim reinstatement.

8. This writ petition is, therefore, dismissed.

D.K. Sinha, J.

9. I agree.