

On Record Additional Documents) Kapil ... vs Union Of India And Anr on 19 March, 2021

Author: Rajiv Sahai Endlaw

Bench: Rajiv Sahai Endlaw, Amit Bansal

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 3577/2021 & CM No.10819/2021 (of petitioner for pl
on record additional documents)

KAPIL DEV

..... Petiti

Through: Mr. A.K. Trivedi & Mr. Naveen
Kumar, Advs.

Versus

UNION OF INDIA AND ANR

..... Respon

Through: Mr. J.K. Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% 19.03.2021

1. The father of the petitioner Kapil Dev, namely, Mr. Rajinder Singh was employed with the respondents Indian Railways. The respondents Indian Railways brought out a scheme where they permitted certain categories of employees to take voluntary retirement in lieu of their wards being employed in the respondents Indian Railways. The said Scheme was declared ultra vires by Central Administrative Tribunal (CAT), Principal Bench, New Delhi the Constitution of India and the said order has attained finality.

2. Consequent to the Scheme under which the petitioner was employed in lieu of his father, having been declared ultra vires, the services of the petitioner are informed to have been terminated in or about the year 2013. The petitioner and his father filed OA No.4264/2013 and we are informed that under an interim order in the said OA, the petitioner continued in employment. In the interregnum, the father of the petitioner i.e., Mr. Rajinder Singh, died on 2nd January, 2014. OA No.4264/2013 was dismissed on 16th January, 2015 and the said order also attained finality. It appears that under the interim order in the OA and which though had come to an end on 16th January, 2015 when the OA was finally decided, the petitioner was allowed to continue in service till 18th January, 2020, when he was finally dismissed.

3. This writ petition has been filed impugning the order dated 16 th January, 2015 of dismissal of OA No.4264/2013 as well as the order dated 18th January, 2020, of dismissal of the petitioner from service.

4. Though the dismissal from service of the petitioner on 18 th January, 2020 is consequential to the order dated 16 th January, 2015 of CAT, which has attained finality, and which order in turn is in accordance with an earlier order of CAT holding the Scheme to be ultra vires, and there would have been no occasion for entertaining this petition, but the petitioner, as Annexure P-5 to the petition, has annexed Mewa Lal Pal Vs. Union of India, 2019 SCC Online Delhi 6766 (DB) followed in order dated 25th January, 2019 in W.P. (C) 10296/2017 titled Bharat Ram Vs. Union of India and order dated 4th February, 2019 in W.P. (C) 1146/2019 titled Shiv Prasad Vs. Union of India (Annexure P-6 and P-7 to the petition respectively) where it appears, in similar circumstances, the termination was set aside and the employee who had been permitted to continue for long, was allowed to continue.
5. We have enquired from the counsel for the respondents Indian Railways appearing on advance notice, whether any remedy was preferred against the order in Mewa Lal Pal supra.
6. The counsel for the respondents Indian Railways states that he will have to take instructions.
7. On enquiry, it is informed that the salary of the petitioner has not been paid after 18th January, 2020.
8. Merely because of Annexure P-5 to P-7, it is deemed appropriate to issue notice.
9. Notice is accepted by counsel for the respondents Indian Railways.
10. The facts, if any required to be placed on record, be placed on record either by way of additional documents or under affidavit.
11. List on 23rd August, 2021.

RAJIV SAHAI ENDLAW, J AMIT BANSAL, J MARCH 19, 2021 'gsr'