

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

Dated the th day, 1st day of June Two Thousand And Twenty

PRESENT:

THE HON'BLE MR. P. MADHAVAN, MEMBER(J)

THE HON'BLE MR. T. JACOB, MEMBER(A)

O.A.310/1426/2019

H. Mahaboob Basha,
No.9, Asokan Street,
Palavanthangal,
Chennai-600 114.

.....Applicant

(By Advocate: M/s. S. Arun)

Vs

1. The Cheif Post Master General,
O/o. The Chief Postmaster General,
Tamilnadu Circle,
Chennai-600 002;
2. The Senior Superintendent of Post Offices,
Tambaram Division,
Chennai-600 045.

.....Respondents.

(By Advocate: Mr. M. Kishore Kumar)

ORDER

(Pronounced by Hon'ble Mr. P. Madhavan, Member(J))

This is an OA filed seeking following relief:-

"To set aside impugned Memo No.B3/OA513/2019 dated 22.08.2019 issued by the 2nd respondent and consequently direct the Respondents to grant him temporary status Group D/MTS in terms of Grant of Temporary Status and regularization Scheme, 1991 and pass such other orders as are necessary to meet the ends of justice."

2. The case of the applicant in short is that he is engaged as a Casual Labour by the Department of Posts since 02-09-1989 and he is eligible to be granted Temporary Status as per grant of Temporary Status and Regularisation Scheme of Postal Dept. As per scheme "Temporary Status" would be confirmed on the casual labourers in employment as on 29-11-1989 and who continue to be currently employed and have rendered continuous service and has atleast worked for 240 days (206 days in the cases of offices observing 5 day week)". The said scheme was extended later to 01-09-1993. So the applicant is entitled to get Temporary Status

3. According to the applicant, he is working as Postman in Pallavaram Sub-office. Even though the applicant had given representations to authorities to grant him Temporary Status, it

was not considered. So, he filed OA 513/19 before this Tribunal. The Tribunal then directed the respondents to consider the representations of the applicant and pass a reasoned and speaking order(Annexure-A5). Accordingly, the 2nd respondent considered the representations and passed the impugned order dt. 28-08-19(Annexure-A6) stating that he is only a "Substitute" engaged in the leave vacancies and cannot be treated as casual labourer. The applicant therefore challenges the said order in this OA and seeks to grant of Temporary Status.

4. According to the respondents, the applicant being a Substitute, cannot seek Temporary Status. It was also submitted that the Tribunal had in OA 489 and 699/05 had considered the case of 'Outsiders' and held that the scheme for conferring Temporary Status is not applicable to 'Substitutes'.

5. We had gone through the contentions of applicant as well as respondents.

6. Though the applicant states that he was being engaged as a casual labourer from 02-09-1989 onwards, no record is produced to show that he was engaged as a casual labourer coming under the clarification issued in OM dt 17-05-1989. The said OM still subsists and was not set aside by any Tribunal or High Court. The applicant

had produced a photo copy of letter (date not clear) showing that he was included in the 'Outsider' list. There is no document to show that any sort of selection procedure as per rules was complied when applicant was engaged. Here the respondents also admit that the applicant is an 'Outsider' and he was engaged as a 'Substitute' as and when Postmen were absent or takes leave. The Respondents had admitted that the applicant is already in the dovetailed list prepared for the Substitutes/Outsiders. So as per the OM dt.17-5-89, he is not a Casual Labourer coming under the scheme and he can be considered only as 'Outsider' and he cannot be granted Temporary Status. Eventhough the scheme was introduced in the year 1993 for Casual Labourers in the Postal Department, it is not clear why the applicant who claim to be a casual labourer with effect from 2-9-1989 did not approach the Tribunal till date. The OA is clearly barred by limitation also.

7. The respondent had considered his case as per rules and regulations and the scheme and they had made it clear that the applicant being engaged as a Substitute will not get the benifit of Temporary Status as per scheme introduced by the Postal Directorate.

8. We have carefully gone through the impugned order and we do not find any reason to interfere in it. The decision produced by the applicant in E.N sulochana v union of India(CDJ 2017 143)and Veerendra bhai Chaudhari and others V Union of India reported in CDJ 2015 GHC 1477 has no direct application to the facts of this case. So we find no merit in the OA and accordingly it is dismissed. No costs.

(T. JACOB)
MEMBER(A)

(P. MADHAVAN)
MEMBER(J)

.06.2020