



CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT Sittings : INDORE

Original Application No.201/00248/2018

Indore, this Thursday, the 19th day of March, 2020

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Anita Rajak S/o
 Prakash Rajak
 Age 49 years
 Occupation Service
 (Part time Water man (5hrs)
 Address: shri YantrNagar,
 Khandwa Road, Indore 452001

(By Advocate –**Shri R.K. Shukla**)

-Applicant

V e r s u s

1. Union of India,
 Thro. Director General
 Department of Post
 Ministry of Communication
 & IT Dak Bhavan Sansad Marg,
 New Delhi 110001

2. Senior Superintendent Post Office,
 Indore, City Dn M.G. Road,
 Indore 452007

3. Senior Post master
 GPO Compound,
 Indore 452001

- Respondents

(By Advocate –**Shri Kshitij Vyas**)



O R D E R (ORAL)

By Navin Tandon, AM:-

The applicant is seeking regularization with the respondent-department, where she is working as part time Waterman since 1996.

2. The applicant has made the following submissions:-

2.1 She was appointed as part time Waterman for 5 hours per day in the GPO Indore from 22.04.1996. Copy of charge report is marked as Annexure A/2.

2.2 She is working on the same post since that time.

2.3 She is praying for regularization citing the order dated 15.12.2017 (Annexure A/1) of this Tribunal passed in O.A. No.24/2016 (***Raju Hansari vs. Union of India***).

3. The following reliefs have been sought:-

“8.1 Honorable Court may kindly to issue the order/directions to the respondents of this intention that there is to be allowed/awarded the temporary status to the applicant from the year 1992.

*8.2 Honorable Court may issue the orders/direction to the Respondents granted the temporary status/MTS in light of judgment passed in similar type case OA No.24/2015 *Raju Hansari v/s Union of India* decided on 15/12/2017 by Hon'ble CAT Bench Jabalpur against respondent (Annexure A-1).*

8.3 Honorable Court may issue the orders/direction to the Respondents of this intention that why there has not been granted the temporary status/MTS till today, kindly to punish that Officer who has committed this error.



8.4 Honorable Court may kindly issue the orders/directions to the Respondents of this intention that, there is to be posted the applicant on the post of MTS from the date of 1992.

8.5 Honorable Court may kindly be issue the orders/directions to the respondents of this intention that, there is to be paid the interest @ 18% on the arrears till the payment of the arrears.

8.6 There are get to be received the court expenses of Rupees 5000/- from the respondents.

8.7 Honorable Court may kindly be issue the orders/directions of this intention that, if they are not to provide the MTS to the applicant, then there may kindly to be ordered to award the temporary status to the applicant.

8.8 There are kindly to be issued the orders/directions of this intention to the respondents take action on the representations as per rule formed for temporary status.

8.9 Other relief is which the Hon'ble Tribunal may deem fit kindly be grant."

4. The respondents in their reply have made the following submissions:-

4.1 The applicant was engaged as casual laborer w.e.f. 22.04.1996 on temporary basis to carry out part time work.

4.2 She was not engaged through employment exchange after following due procedure of appointment. No assurance was ever given to her for regularization on MTS post or on GDS or granting temporary status.

4.3 As per Department of Personnel and Training O.M. dated 01.09.1993, only the full time/part time casual labourers, who are working for 240 or 206 days (5 days in a week) as on 01.09.1993, were

granted temporary status. Since the applicant was engaged on 22.04.1996



therefore the provision of DoPT O.M. dated 01.09.1993 is not applicable in the present case.

4.4 The Department Post (PC Cell) vide its order dated 19.11.2010 directed all the Chief PMGs that since duties of waterman, watch and ward, gardening, cleaning etc. are now part of duties assigned to Multi Tasking Staff, the existing practice of engaging casual labourer as waterman, for gardening, watch and ward or any other miscellaneous category of work shall be dispensed with w.e.f. December, 2010.

4.5 The department vide notification dated 14.05.2015 issued Department of Posts (Multi Tasking Staff) Recruitment Rules, 2015 (Annexure R/1) where 25% of the post of MTS are to be filled up on the basis of seniority-cum-fitness from the full/part time casual labourers of temporary status and engaged on or before 01.09.1993. In the instant case, the applicant was engaged as part time casual labourer without having conferred temporary status on 22.04.1996.

4.6 In the matter of *Raju Hansari* (supra), the applicant therein was engaged as part time Sweeper on 01.12.1989 i.e. before 01.09.1993 whereas in the present case, applicant was engaged as part time causal labourer on 22.04.1996 which shows that applicant is not entitled to relief sought and both the case are not identical.



5. Heard the learned counsel for both the parties and perused the pleadings and documents annexed with the O.A.

6. Learned counsel for the applicant placed before us a copy of letter dated 17.05.1989 issued by Ministry of Communication regarding clarification of casual labourers and partime causal labourers. The same is taken on record.

7. Learned counsel for the respondents places reliance on the judgment of Hon'ble Apex Court in the matters of *Secretary, State of Karnataka and others vs. Uma Devi and others* (3), (2006) 4 SCC 1 and *Union of India vs. Arulmozhi Iniarasu and others* (2011) 9 SCR1.

7.1 Learned counsel for the respondents submits that Hon'ble Supreme Court in *Uma Devi* (supra) has held that when an engagement is not based on proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature.

7.2 Learned counsel for the respondents drew our attention to the matters of *Arulmozhi Iniarasu* (supra) where the inferences of *Uma Devi* (supra) have been reiterated and further held that such a person cannot invoke the theory of legitimate expectation for being confirmed in the post.

FINDINGS



8. We find that the respondent order dated 17.05.1989 clearly indicates that for purpose of recruitment of Group D posts the following priority should be observed-

- “(i) *NTC Group ‘D’ Officials.*
- “(ii) *EDAs if the same Division.*
- “(iii) *Casual labourer (full time or part-time). For purpose of computation of eligible service, half of the service render a part time casual labourer should be taken into account in a period of 2 years he will be treated for purpose of rectt., to have completed one year of service as fulltime casual labourer).*
- “(iv) *EDAs of other divisions in the same Region.*
- “(v) *Substitutes (not working in Metropolitan Cities).*
- “(vi) *Direct recruits through employment exchange.”*

9. We also find that in the order passed by us in O.A. No.24/2016 we have directed the respondents to consider the claim of the applicant afresh in the light of circular dated 17.05.1989. It has been brought to our notice that Raju Hansari, the applicant therein, has been offered regularization in the department.

10. We do not find that any merit on the arguments putforth by the learned counsel for the respondents that the Recruitment Rules have been issued on 2015 which provides for regularization for only those casual labourers who has been given appointment prior to 01.09.1993 because there was a scheme of department already in place since 17.05.1989 and

the respondents were directed to consider the case of Raju Hansari to be regularized in terms of circular dated 17.05.1989.



11. Similarly, the cases relied upon by the learned counsel for the respondents of Hon'ble Apex Court are also distinguishable because scheme of the department already existed as on 17.05.1989 to regularise the casual labourers to Group D post, which the respondent department has failed to do so.

12. In view of the above, the O.A. is allowed. We direct the respondents to consider the claim of the applicant in the light of the circular dated 17.05.1989 within a period of three months from the date of receipt of copy of this order. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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