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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1462/2001

New Delhi, this the 16th day of January, 2002

Hon'ble Shri Govindan S.Tampi, Member (A)

1. Jag Naresh
S/o Shri Tilak Ram
R/o 1600, Sector-V
R.K.Puram, New Delhi.
2. Rajbir Singh
S/o Shri Charan Singh
R/o K-219, Kali Bari Marg
New Delhi.

...Applicants

(By Advocate Shri A.K.Trivedi)

V E R S U S

UNION OF INDIA : THROUGH

1. Chief Controller of Accounts
Ministry of Finance
Room No.240-B
North Block, New Delhi - 110 001.
2. The Pay & Accounts Officer (CPS)
Office of the C.C.A., Ministry of Finance
PAO's Office, Room No.240-B
North Block, New Delhi - 110 001.

...Respondents

(By Advocate Shri A.K.Bhardwaj, through
proxy counsel Shri M.K.Bhardwaj)

O R D E R (ORAL)

By Hon'ble Shri Govindan S.Tampi,

Jag Naresh and Rajbir Singh, applicants in this OA seek their re-engagement by the respondents in preference to freshers and juniors and request that the respondents be restrained from engaging labour through contractors, for performing the work, they were attending to.

2. The applicants were represented by Shri A.K.Trivedi and the respondents by Shri M.K.Bhardwaj, during the oral submissions.

3. The applicants No. 1 & 2 were engaged as Watermen on daily wages, with the respondents from May to August, 1997 and May to July, 1998, respectively.

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They were engaged subsequently in 1998, 99 and 2000. As they apprehended lay off, they approached the Tribunal in OA 2057/2000, but following the vacation of stay, their services were dis-engaged. The applicants had completed the period of 240 days in one year and have become eligible for grant of temporary status. OA No.2057/2000 has been disposed of on 7-12-2000 with directions to the respondents to consider re-engagement of the applicants subject to availability of any work of casual nature. The applicants, on approaching the respondents have been informed that the work was being performed by casual labourers engaged through contractors. Action of the respondents are improper, illegal and violative of the articles 14 & 16 of the Constitution. They are also against the directions of the Tribunal in OA No.770/97, filed by Abhay Singh & Ors., decided on 24-9-1997, in OA No.1490/99 filed by Nanak Chand & ors., decided on 10-8-1999, and by the Hon'ble Supreme Court in Central Social Welfare Board Vs. Anjali Bepari (JT 1996 (8) SC-1) and Ghaziabad Development Authority Vs. Vikram Chaudhary (SLJ 1995 (3) 239). In view of the above, the applicants call for the protection of their rights by way of their re-engagement, directions to the respondents not to engage labour through contractors and preparation of a seniority list of casual works, for re-engagement and regularisation in turn. The above pleas were strongly reiterated by Shri A.K.Trivedi, 1d. counsel for the applicants, during the oral submissions.

4. In the reply filed on behalf of the respondents, it is pointed out that the applicants had earlier obtained an order from the Tribunal in OA

2057/2000, directing that the applicants be engaged whenever there was any work of casual nature, not only that relating to water coolers, in preference to outsiders and freshers. The respondents had given on contract the work of filling the water, on contract basis, on a purely temporary arrangement from 11-5-2001 to 1-6-2001. Respondents have not engaged any casual labour through contractor and any averment to that effect was wrong. The applicants have been engaged for lesser number of days than those indicated by them. Jag Naresh had worked for 64 days in 1997, 175 days in 1999 and 136 days in 2000. Rajbir Singh had worked for 176 days in 1998-99 and 123 days in 2000. Their that they had worked for more than the required number of days, for being granted temporary status, has no basis at all. In view of the above, the applicants' plea should merit dismissal, plead the respondents through Shri M.K.Bhardwaj, 1d. proxy counsel.

5. I have considered the matter. While the applicants assail the action of the respondents in dispensing with their services and not re-engaging them and not granting them temporary status, they are entitled to and attempting to engage labour through contractors, the respondents state that the applicants can be engaged only if work is available - which was not the case presently - that the applicants do not have the requisite period at all for grant of temporary status and that no labour is being engaged through contractors. However, on the number of days, which the applicants have worked for there is a dispute while the applicant No.1 claims that he had worked for 141 days in 1997, 245 days in 1998-99 and

179 days in 2000, applicant no. 2 shows that he had worked for 250 days in 1998-99 and 178 days in 2000. On the other hand, respondents show applicant No.1, as having worked for 64 days in 1997, 175 days in 1999 and 136 days in 2000. Applicant No.2 had worked for 176 days in 1998-99 and 123 days in 2000. At the same time the copies of the sanction orders placed on record by the applicants clearly show that both the applicants have completed 240 days during May 98 to January 1999 - 245 & 250 days in fact - and have thus become eligible for grant of temporary status, in terms of DoPT's scheme for grant of temporary status and regularisation on 10.9.93. The same cannot be overlooked and the respondents would have to extend the consequential benefits to them, as provided in law. The decisions of the Hon'ble Supreme Court and the Tribunal cited by the applicant call for the same.

6. In the above view of the matter, the OA succeeds substantially and is accordingly disposed of. Respondents are directed to re-engage the services of the applicants, when the work is available, and grant them temporary status, as they have become eligible for grant of the same by January 1998. Respondents also shall not engage anyone through contractors, for doing the work, which the applicants have been performing or similar work. Once the applicants are engaged and granted temporary status, they would also get the benefit of pay worked out on daily basis, on the minimum of the basic pay in the appropriate post/grade. The applicants would not be entitled for any backwages. No costs.

(Govindan S. Tampi)
Member (A)

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