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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1770/2001

New Delhi, this the 5th day of March, 2002

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

Smt. Usha Saini
Wife of Shri Ashok Saini
E-18, Budh Vihar Phase-II
New Delhi.

....Applicant.

(By advocate Shri B. Krishan)

V E R S U S

1. Union of India
Through the Director General,
Archaeological Survey of India,
Office of the Director General Archaeological
Survey of India, Janpath,
New Delhi.
2. Director (Administration)
Office of the Director General Archaeological
Survey of India, Janpath,
New Delhi.

....Respondents.

(By Advocate Ms. Harvinder Oberoi)

O R D E R

By Hon'ble Shri Govindan S. Tampi

Following reliefs are sought by the applicant
in this OA :-

(i) suitable directions may please be issued
to the respondents to regularise the services of the
applicant as a Skilled Worker for the period from
6-6-1983 till 3-11-1997 with all consequential
benefits of pay and allowances based on principle of
equal pay for equal work, seniority, leave, qualifying
service for pension and other retiral benefits etc.

(ii) Further suitable directions may please be
issued to the respondents to regularise the services
of the applicant as Marks Man Worker for the period
commencing from 4-11-1997 with all consequential

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benefits of pay and allowances based on principle of equal pay for equal work, seniority, leave, qualifying service for pension and other retiral benefits etc.

(iii) Such other for further orders as this Hon'ble Tribunal may deem fit and proper may also please be passed in favour of the applicants and against the respondents with costs.

2. Heard Shri B. Krishan for the applicant and Ms. Harvinder Oberoi for the respondents.

3. Applicant has been working as Marks Man in Purana Quila Museum under Director General, Archaeological Survey of India, since 04.11.1997 on adhoc basis, being continued from time to time. Earlier since 06.06.1983, he had been a skilled casual worker placed at Sl. No.1 in the Seniority List. She had neither been given temporary status or regularisation. Her representation for regularisation keeping in view her experience has not borne any fruit. She is also apprehensive of her services being terminated, which she is continuing only on account of the interim order in her favour issued on 20.07.2001. Hence, her request for the intervention of the Tribunal in her favour. The above pleas are forcefully reiterated by Shri Krishan learned counsel.

4. In the rebuttal on behalf of the respondents Ms. Harvinder Oberoi, learned counsel states that though the applicant along with eleven others was granted temporary status in terms of DOP&T Scheme of 10.09.1993 it had to be withdrawn as clarification by DOP&T that the scheme was only for casual workers and not skilled casual workers. Later on four opted to be treated as unskilled casual workers and were given the temporary status. The

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applicant did not opt for the same. Her appointment as Marks Man has been purely on adhoc basis for three months from 04.11.1997 which is being extended from time to time and is liable to be terminated when a regular appointment is being made. The post is to be filled by direct recruitment on sponsoring through Employment Exchange and therefore the applicant's case cannot be considered. Applicant's services have not been terminated and her salary has been released as Tribunal's order, but her regularisation as Marks Man was not permissible in terms of Rules.

5. In the rejoinder, the plea by the applicant is that her case is clearly covered by the decision of the Apex Court in the case of State of Haryana Vs. Piara Singh (1992 (4) SSC 118) as well as Surinder Singh Vs. UOI. Her case was also protected by DOP&T's scheme of 1993. She should therefore, be granted temporary status as skilled casual worker since 1983, and regularised as Marks Man, as the minimum scale of a Group 'C' post, urges Shri Krishan.

6. I have carefully considered the matter the applicant seeks the inter-related reliefs of grant of temporary status as well as regularisation as skilled casual worker from 1983 and regularisation in Group 'C' as Marks Man from 1997 when she has been working in that capacity on adhoc basis. Respondents have declined the same holding that scheme for regularisation of casual labour introduced by DOPT on 10.09.1993, did not cover the case of skilled casual workers and that the post of Marks Man was to be filled only by direct recruitment on being sponsored by the Employment Exchange. According to the respondents have clarified that instructions in DOPT's

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OM No.51016/2/90-Estt-(c) dated 10.09.1993 did not relate to skilled casual workers, though no such specific exclusion in the scheme is not clearly made out by the respondents. As the applicant had worked for more than 14 years as a skilled casual worker, denial of grant of temporary status and regularisation in turn against a Group 'D' vacancy was unfair. Respondents are duty bound to consider the case for grant of temporary status and regularisation of the applicant in terms of the scheme. However, as far as regularisation in Group 'C' post of Marks Man is concerned, the applicant cannot have a legal claims. Her appointment is purely adhoc and temporary in nature and is a stop-gap arrangement. All the letters issued in this context make it clear that the appointment was being continued with usual break for three months or till a regular appointment is made. This alone could have been done as the relevant recruitment rules provide that the post of Marks man are to be filled 100% by direct recruitment. It is a statutory prescription and the Tribunal cannot direct the respondents to promote the applicant to the post de hors that Recruitment Rules. Applicant's claim as this count has to fail Tribunal can only give the direction to the respondents not to terminate the services of the applicant, but keep her on the job as Markman, till a regular person, selected in terms of the Recruitment Rules, joins duty. Keeping in mind, nearly five years the applicant has put in as adhoc Marks Man and fourteen years put in earlier as skilled casual worker, respondents could consider permitting the applicant also to appear for direct recruitment along with freshers being sponsored by the Employment

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Exchange, granting her relaxation in maximum age. While arriving at the above decision I am guided by the principle laid down by the Hon'ble Supreme Court in the case of State of Haryana Vs. Piara Singh as well as Surinder Singh Vs. UOI (supra).

7. In the above view of the matter, the application succeeds partially and is accordingly disposed of. Respondents are directed to consider the grant of temporary status to the applicant, on the day she has completed the requisite period of 240 days or 206 days as the case may be followed by regularisation in turn. This decision which would apply to other persons identically placed in the organisation as well should be given effect to within three months from the date of receipt of a copy of the order. The applicant's claims for regularisation as Marks Man, the post which she is holding on adhoc basis is rejected as being without merit, but with other directions to the respondents to permit her to continue in that post till a regularly recruited person joins duties as Marks Man, as well as to permit her to appear for ^{direct recruitment} ~~directment~~ to the post, by relaxing the upper age limit, considering the period of service she has put in already both as a skilled casual worker and as an adhoc Marksman. No costs.

GOVINDAN S. TAMPI)
MEMBER (A)