

(1)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2086/2001

Monday, this the 20th day of August, 2001

Hon'ble Shri S.A.T. Rizvi, Member (Admn)

Vinay Pal Singh
S/O Shri Kanchi Lal
R/O RZ/H-15, Mahavir Enclave
New Delhi-45.

...Applicant

(By Advocate: Shri A.K. Bhardwaj for Shri M.K. Bhardwaj)

Versus

1. Union of India & Others through
Secretary (O.L)
Ministry of Home Affairs
IInd floor, Lok Nayak Bhawan
New Delhi.
2. Director
Central Hindi Training Institute
M.H.A.
7th Floor, Paryavaran Bhawan
C.G.O. Complex, Lodhi Road
New Delhi
3. Deputy Director (Exam)
Ministry of Home Affairs
Deptt. of O/L, Hindi Teaching Scheme
Janpath A-Barreks, Janpath,
New Delhi-1.

...Respondents

O R D E R (ORAL)

Heard the learned proxy counsel for the applicant.

2. The applicant in this OA has worked on casual basis continuously for more than two years from 1.5.1996 to 19.11.1998, and on this basis has become entitled to be considered for conferment of temporary status in terms of the DOPT's Scheme of 10.9.1993 as clarified by this Tribunal by its order dated 13.11.1995 passed in OA-1696/1995 (Kiran Kishore Vs. Union of India & Ors.). The applicant has not been reengaged ever after 19.11.1998.

3. On the question of limitation, the learned proxy counsel has correctly placed ^vreliance on what this Tribunal (Allahabad Bench) had to say in OA-288/1994 in

paragraph 6 of its order dated 10.11.2000. I find it useful to reproduce the same in the following:-

"6. The respondents have mentioned that they did not give registration in Live Register for Casual Labour because the applicant did not claim it. This argument of the respondents is not valid because they know when the work of casual nature is available and they are expected to keep record of persons who worked in the past to offer them such work on the basis of their seniority. This is the law of the land applicable to employees of Government Departments who are covered under the definition of Workmen under Industrial Disputes Act, 1947. The responsibility to offer work to such workmen is squarely cast upon the employer. The employer cannot claim limitation in entering the names of such workers who worked in the past unless he shows that he had offered work to the worker in the past and the worker refused to accept it."

4. If one has regard to the aforesaid observation made by this Tribunal, the respondents cannot claim limitation in considering the case of the applicant for conferment of temporary status. The situation would have been different if the respondents had offered work to the applicant even after 19.11.1998 and the applicant had refused to accept the same. According to the learned proxy counsel, that is not the case in the present ^{case} ~~case~~ and thus, the ^{ratio of the 2} aforesaid observation made by this Tribunal in OA-288/1994 will find application in the circumstances of the present case.

5. Insofar as the DOPT's OM dated 10.9.1993 is concerned, the various stipulations made therein do not seem to cast any ^{obligation} ~~application~~ on the applicant to approach the respondents by way of representation for conferment ^{of} temporary status. Under the aforesaid scheme, the


(3)

applicant simply acquires temporary status suo-moto on completing 240 days of continuous service in a given year. The applicant clearly fulfils the aforesaid condition and, therefore, as per the aforesaid scheme, it is the duty of the respondents to consider the claim of the applicant on their own^{2 and 2}, subject to the fulfilment of the various conditions, to confer temporary status on him.

6. Despite the position stated in the previous paragraph, on consideration, I find that it would be convenient for the respondents to consider the claim of the applicant if he files a proper representation in the matter before them giving details of the service rendered and providing such other details as he considers necessary. For this purpose, the applicant is granted 15 days' time to file a proper representation from the date of receipt of a copy of this order. The respondents are directed to consider the representation as and when received and consider granting temporary status to the applicant in terms of the DOPT's OM dated 10.9.1993^{2 & within a period of three months. 2}. In the event of the respondents not agreeing to confer temporary status on the applicant, they will pass a reasoned and a speaking order within ^{2 the same 2} ~~a maximum~~ period of three months from the date of receipt of representation from the applicant.

7. The OA is disposed of in the aforestated terms at the admission stage itself even without issuing notices. No costs.

8. Registry is directed to send a copy of the OA along with this order.


(S.A.T. Rizvi)
Member (A)

/sunil/