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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2242/2001

New Delhi, this the 10th day of May, 2002
HON'BLE SHRI GOVINDAN S. TAMPPI, MEMBER (A)
Bharoseram S/o Devram
R/o C-2/59, Shahjahan Road
New Delhi.

(By Advocate Shri M.K. Bhardwaj)

...Applicant

V E R S U S

Union of India & Ors. through

1. The Secretary
Ministry of Finance,
South Block, New Delhi.
2. Assistant Director
Ministry of Finance,
South Block, New Delhi.
3. Under Secretary
Department of Culture,
Ministry of Human Resources and Development,
Shastri Bhawan, New Delhi.

...Respondents

(By advocate Shri R.N. Singh)

O R D E R

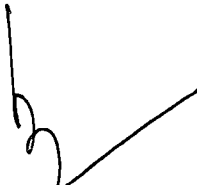
By Hon'ble Shri Govindan S. Tampi,

Applicant in this OA is aggrieved that inspite of continuously working for 17 years he has not been regularised by the respondents and therefore seeks its redressal.

2. S/Shri M.K. Bhardwaj and R.N. Singh represented the applicant and the respondents respectively during the hearing.

3. The applicant who was engaged as a daily wager, on being sponsored by the Employment Exchange, on 14.02.1984, was converted as an adhoc Peon on 20.02.1986 and continued as such till 1989. On 31.12.1989 when IX Finance Commission was wound up his services were dispensed with. A few of those

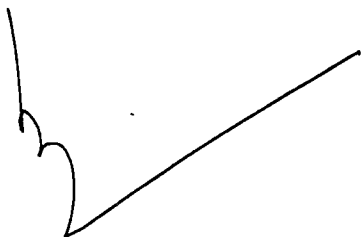
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rendered surplus were engaged elsewhere but not the applicant. He was, thereafter engaged by the Pay Commission and continued till 28.02.1997. Thereafter, he was engaged as adhoc Peon in H.R.D. Ministry, where he continued till 30.09.1998, followed by another engagement with 11th Finance Commission and continued till 31.08.2000. Thus he had service of as many as seventeen years and that too without any complaint whatsoever. Still his case has not been taken up for regularisation. Grounds raised in the OA and strongly urged by the learned counsel Sh. Bhardwaj are that :

- i) Long and continued service of 17 years should not have been overlooked ;
- ii) Mohinder Singh a similarly placed individual was granted the benefit by the Tribunal inn OA No.868/1990, which the present applicant was also entitled to;
- iii) In the case of Hemraj & Ors. Vs. UOI (ATJ 1996 Vol.II. page 584) adhoc appointees continuing for a long time were given the benefit of regularisation by the Tribunal;'
- iv) Hon'ble Supreme Court had also permitted regularisation of adhoc appointees, holding the post for long, in State of Haryana Vs. Piyara Singh (1992 (4) SCC 118).

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v) His case is clearly covered by the requirements or specifications of the 10.09.1993 scheme and

vi) Denial of the above benefit regularisation was improper

In the above circumstances, the applicants OA deserved to succeed, pleads Sh. Bhardwaj.

4. In the reply filed on behalf of the respondents it is indicated that the applicant was functioning as a daily wager in Finance Commission, an Organisation meant for a shortwhile with full knowledge that the engagement was for only a short period and therefore when the Commission is wound up, after its tenure he had perforce to leave the job. Functioning with the Commission for a limited life period, did not create any right for grant of temporary status and regularisation as laid down by the Tribunal in Himmat Singh Vs. UOI & Ors. (OA No. 2500/2000) Vinod Kumar Vs. UOI (OA No. 2525/2000 decided on 17.08.2001). Pay Commissions and Finance Commission, under whom the applicant had worked having become defunct the applicant cannot have any case for further engagement or regularisation. His services with Fourth Pay Commission, 10th Finance Commission and with HRD for celebrating 50 years of Indian Independence, were all contractual appointments, for limited period(s) and therefore they did not bestow any vested right on the applicant for grant of temporary status and/or regularisation. According to him the applicant's service, also was not continuous

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or uninterrupted as claimed but was in broken spells. Grant of temporary status in terms of DOP&T's decree of spells 93, was not applicable in the present case and therefore his completing the period of 240 days or otherwise did not apply. The respondents counsel Sh. Singh, also relied upon the orders of the Tribunal in the cases of Himmat Singh and Vinod Kumar to show that the applicants had no case at all much less an arguable case. He had been working only against jobs under bodies like Finance Commissions which were of limited presence and short durations. That being the case, respondents action is dispensing with the applicant's service, cannot be questioned, plead Sh. R.N. Singh.

5. I have carefully considered the matter. According to he applicant, inaction of the respondents is not regularising him, inspite of having worked for over 17 years, was improper and called for intervention. The respondents, on the other hand point out that working with Organisations with a limited life period, did not make him eligible for being granted regularisation. Facts are not disputed. Letter dated 30.06.84- from the Fourth Pay Commission shows that he was working with them from 20.02.1986 to 24.06.1987. It is followed by Finance Commission's letter dated 01.01.1990 showing that the applicant was working with them from 24.06.1987 to 01.01.1989. He is further found to have been engaged w.e.f. 29.06.1993. Letter also show his engagement from 24.06.1994 through 28.02.1997, following which he had been engaged as adhoc Peon since 17.04.1997 and thereafter also. It is averred by him that he had

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worked with 9th to 10th Pay Commissions 4th and 5th Central Pay Commissions and Sectt for the Organisation of the Country's 50th Independence. Thus, his having been engaged by the respondent to perform, successively is a matter of record. It is also evident that he had been spoken of well by his controlling officers. On the other hand, Pay Commissions and Finance Commissions being bodies with limited period of time the applicant was aware that his engagement by them was only for short durations, and he cannot claim anything more, in the eyes of the respondents. They also rely upon two decisions of the Tribunal in support of their case. However, the case of Himmat Singh (OA No. 2500/2000 decided on 17.08.2001) and Vinod Kumar and Ors. (OA No. 2555/2000 also pronounced on 17.08.2001) can be distinguished on facts. In the case of Himmat Singh the applicants were engaged by 10th Finance Commission from September 1998/March 1999 to November 2000 while the present applicant has been working since 1984 as Daily Wagers and since 1986 as adhoc Peon. He has thus a long period of 18 years which cannot be wished away. Even if he was engaged by temporary bodies under the Finance Ministry/HRD it was one following the other and for a long period. Vinod Kumar's engagement was as Driver on contract basis and drivers's post being a Group 'C' post, it could not have been covered under DOP&T's scheme of September 1993, applicable to Group 'D'. Thus both the decisions relied upon by the respondents are distinguished from the case of the applicant and reliance placed by him in Mohinder Singh's case OA No. 868/1990 dated 05.03.1991, is relevant. Though it is

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an earlier decision relied upon by the respondents are Single Bench decisions. Thus both on facts and in law the applicant has a case, and his having put in a very long and almost uninterrupted service from June 1986 to August, 2000 his case falls within the compass of the DOP&T's scheme of 10.09.1993, more so as he was in service at that time itself. His services could not have been dispensed with, as has been done by the respondents.

6. In the above view of the matter, the applicant succeeds and is accordingly allowed. Respondents are directed to re-engage the services of the applicant within two months from the date of receipt of a copy of this order and to grant him temporary status, from the same day, as he had completed the requisite period of service, in terms of the DOP&T's scheme for grant of temporary status to and regularisation of Casual Workers dated 10.09.1993. He should be given wages at the minimum of the scale of pay in the Group 'D' post. His case for regularisation should be considered in his turn, depending upon the vacancies. He should also be placed in the seniority list of those granted temporary status from August 2000, itself when his services were incorrectly dispensed with. The applicant, however, would not be entitled to draw wages from 31.08.2000 to his date of re-engagement. He is also awarded cost of Rs.3000/- towards the cost of his litigation.

(GOVINDAN S. TAMPI)
MEMBER (A)