

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2278/2001

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New Delhi, this the 17th day of May, 2002

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

Jodh Singh
Kothi No.9, Teen Murti Marg
South Avenue.

...Applicant
(By Advocate Shri M.K.Bhardwaj)

V E R S U S

UNION OF INDIA : THROUGH

1. Secretary
Ministry of Finance
South Block, New Delhi.
2. Asstt.Director
Ministry of Finance
South Block, New Delhi.
3. Section Officer
National Human Rights Commission
Sardar Patel Bhawan
Parliament Street, New Delhi.

... Respondents
(By Advocate Shri R.V.Sinha proxy for
Shri R.N.Singh)

O R D E R

By Shri Govindan S.Tampi,

Issue of directions to the respondents to appoint the applicant against a group 'D' post with all consequential benefits, after setting aside the order of his termination of service is the relief claimed in this OA.

2. Heard S/Shri M.K.Bhardwaj, 1d. counsel for the applicant and Shri R.V.Sinha, 1d. proxy counsel for Shri R.N.Singh, for the respondents.

3. The applicant was appointed as a Peon on 1-2-1985, by the Fourth Pay Commission, on being sponsored through the Employment Exchange. When the

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Commission was wound up, requests were sent to other Organisations to absorb the employees but it did not help the applicant. He was thereafter re-engaged by the Vth Central Pay Commission, following which he was attached to the National Human Rights Commission, where he worked until 31-8-96. Thus the applicant had worked for over 11 years but was still not granted the benefit of regularisation. Hence this OA. Grounds raised in the OA are that :-

- i) long and continued service of 11 years should not have been overlooked ;
- ii) Mohinder Singh a similarly placed individual was granted the benefit by the Tribunal in OA No.868/1990, which the present applicant was also entitled to;
- iii) in the case of Hemraj & Ors. Vs. UOI (ATJ 1996 (2) 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).
- v) his case is clearly covered by the requirements or specifications of the 10.09.1993 scheme and ... 3/-

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vi) denial of the above benefit regularisation was
improper

In the above circumstances, the applicant's 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 Pay Commission and Finance Commission Organisations meant for a shortwhile, with full knowledge that the engagement was for only a short period and therefore when the Commission was wound up, after its tenure, he had perforce to leave the job. Functioning with the Commission having 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, 9th Finance Commission and 10th Finance Commission, 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 them, the applicant's service, was also not continuous or uninterrupted as claimed but was in broken spells. Grant of temporary status in terms of DOP&T's Scheme of September 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. Sinha, also relied upon the orders of the Tribunal in the cases of Himmat Singh and Vinod Kumar (OA 2500 & 2525/2000) 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 services, cannot be questioned, plead Sh. R.V.Sinha, 1d. proxy counsel.

5. On behalf of National Human Rights Commission, respondent No.3, it was submitted that the Tribunal had no jurisdiction to deal with them and that the applicant had never worked with them.

6. I have carefully considered the matter. Plea in this OA is for the engagement of the applicant and his regularisation, keeping in mind his 11 years of service with various statutory bodies, under the Govt. Respondents, on the other hand, hold that as the applicant was engaged for specific spells by Commissions who were Organisations for limited period of time, he does not have any right for consideration for regularisation. Facts are not disputed. Letter dated 13-2-85 from the Fourth Pay Commission shows that he was working with them from 1-2-1985 and that he was given fixation of pay on 13-10-1986. Following its disbandment, he was appointed as Farash by the Finance Commission by order dated 19-1-1988, where he continued till the end of 1989. Thereafter, he has been engaged by 10th Finance Commission from 1-1-1993,

where he worked till the end of 1994, when his services were discharged. 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 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 February 1985 to December, 1999. 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 application succeeds substantially 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, provided 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. In that case, he would also be entitled for being granted pay at the minimum of the scale of pay in 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 December 1994 itself when the applicant's services were incorrectly dispensed with. The applicant would not be entitled to draw wages from 12-12-1994 to his date of ultimate re-engagement. He is also awarded Rs.1500/- towards the cost of his litigation.

(GOVINDAN S. TAMPI)
MEMBER (A)