

(22)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA NO. 2281/2001

New Delhi this the 4th day of October, 2002

HON'BLE SH. KULDIP SINGH, MEMBER (J)

1. Bijendra Sharma
S/o Sh. Bhagwan Singh
R/o RZ-B, 11/A, Mahavir Enclave-I,
Gali No. 8, Gurdwara Road,
New Delhi-110045.
Employed as casual labour under
Assistant Engineer, CPWD, Sub-Division-IV,
Division XI at CPWD Office, Amrit Kunj, DMS Colony,
Hari Nagar,
New Delhi-110064.
2. Rakesh Singh
S/o Sh. Ram Chandra Singh
R/o Quarter No. 257, Block 18,
Amrit Kunj, DMS Colony, Hari Nagar,
New Delhi-110045.
Employed as casual labour under
Assistant Engineer,
CPWD, Sub-Division-IV, Division XI at CPWD Office,
Amrit Kunj, DMS Colony, Hari Nagar,
New Delhi-110064.
3. Vinod Kumar
S/o Shri Brahma Nand Rai,
R/o Quarter No. 164,
Amrit Kunj, DMS Colony, Hari Nagar,
New Delhi-110045.
Employed as casual labour under
Assistant Engineer, CPWD, Sub-Division-IV,
Division XI at CPWD Office, Amrit Kunj, DMS Colony,
Hari Nagar,
New Delhi-110064. Applicants

(By Advocate: Sh. R.K. Shukla proxy for
Sh. S.N. Shukla)

Versus

1. Union of India,
Ministry of Urban Affairs,
Nirman Bhawan,
New Delhi-110011.
2. The Director General of Works,
CPWD, Nirman Bhawan,
New Delhi-110011.
3. The Executive Engineer Electrical,
Division No. 11,
CPWD, Pusa,
New Delhi-110012.

(By Advocate: Ms. Promila Safaya)

K.W.

O R D E R (OMAL)

By Sh. Kuldeep Singh, Member (J)

This is a joint OA filed by three applicants claiming that they have been working from June 1988, April 1992 and January 1999 respectively on different dates as casual labourers as Wireman and Pump Operators. Applicants further claim that they have not been given temporary status in accordance with the Govt. instructions so they seek that either they should be regularised or they should be given temporary status in accordance with law.

2. Applicants further claim that according to the OM dated 13.10.83 the applicants are entitled for being regularised as casual employees in Group 'D'. It is further claimed that the Government has also framed a scheme for grant of temporary status to casual workers and for regularising them. The scheme is known as "Casual Labourers (Grant of Temporary Status & Regularisation) Scheme of Govt. of India, 1993" which enjoins that temporary status will be conferred on all the casual labourers who are in employment on the 'date of issue' of this OM and who have rendered continuous service of at least one year which means that they must have been engaged for a period of at least 240 days or 206 days in the case of offices observing 5 days week.

3. In accordance with the Scheme applicants are entitled to be conferred at least with temporary status. It is further stated that the work which the applicants are performing is still available with the respondents and respondents are conferred with temporary status or regularisation of the applicants.



4. Respondents are contesting the OA. Respondents in their reply denied that the applicants were working as casual labourers from 1988, 1992 and January 1999. Rather it is stated that at no stage they were employed by the present respondents. Further respondents submit they they have entered into contract with M.s Gogia Bros. through agreement No. 33/EE/ED-XI/2001-02 and other contractors for getting their work of maintenance done and there is no relation with the present applicants. Hence there is no question for grant of temporary status and regularisation. So in view of this stand taken by the respondents this Court vide order dated 30.4.2002 on MA-1908/2001 directed the respondents to file an additional affidavit to bring on record a specific averment regarding engagement of the applicant together with supporting documents.

5. In compliance with this order the respondents filed an additional reply and has also placed on record the general conditions of contract for CPWD workers which is a publication issued in 2001 and then after placing on record the notice inviting tender for providing service for maintenance of water supply etc. This notice inviting tenders shows that the date of opening of tenders was 6.7.2001 meaning thereby that the contract, if any, for maintenance was entered and that was entered after July 2001. There is another document which also shows that contract with M/s. Gogia Bros. was entered which was accepted by President of India on 26.7.2001. There is nothing on record to show that there was any contract prevalent during year 1992/93 when applicants 1 & 2 were engaged as casual labourers.

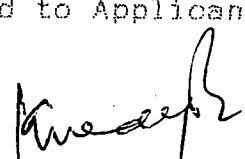
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6. Though during the course of arguments learned counsel for the respondents denied that applicants 1 & 2 were engaged by them in the year 1988 to 1992 but the applicant has placed on record various extracts of Enquiry Office Message Register and Log Book of Pump where applicants 1 & 2 had been working during the year 1993 that is the crucial date when the scheme for grant of temporary status was introduced by the Govt. of India.

7. So as far applicants 1 & 2 are concerned, the record establishes that on the crucial date they were in employment with the respondents and one of them was working since 1988, he must have completed 240 days also as required under the Scheme. Similarly Applicant 2, who was working from 1992, must have also completed 240 days as required under the scheme.

8. However, the case of Applicant 3 is different since he was engaged for the first time in the year 1999. Thus, admittedly he was not in employment in the year 1993 so he cannot be given benefit of the same.

9. Since it has been established on record that applicants 1 & 2 were working on the date when the scheme was issued. So this OA can be partly allowed with a direction to the respondents to verify the record of Applicant 1 & 2 and if they had completed 240 days as per the scheme then temporary status be conferred upon them in accordance with the scheme itself. No relief can be granted to Applicant 3. OA is disposed of accordingly.


(KUNDIIP SINGH)
Member (J)

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