

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2326/2001

Friday, this the 7th day of June, 2002

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

1. Mahes Kumar
S/o Shri Bhirug Nath
2. Rahdey Kishan
S/o Shri Ram Karan
3. Devinder Singh Rawas
S/o
4. Satya Narain
S/o
5. Jai Prakash
S/o Sunder Lal
6. Ram Niwas
S/o Teka Ram
7. Charanjit Singh
S/o Puran Singh
8. Maesh II
S/o Kartar Singh
9. Mahender Pal
S/o Ram Sehgal
10. Dev Raj Sagar
S/o Amar Chand Sagar
11. Man Singh
S/o Bahadur Singh
12. Satya Pal
S/o Balak Ram
13. Binesh Kumar
S/o Indal Singh
14. Puran Singh
S/o Jyoti Prasad
15. Rishi Pal
S/o Mattaru Lal
16. Naval Kishore
S/o Kailash Singh
17. Lalit Kumar
S/o Chaman Lal
18. Pinkoo Sarkar
S/o K.M.Sarkar
19. Suraj Singh
S/o Har Bhan Singh

20. Nandji
S/o Ram Dayal
21. Anoop Roy
S/o A.K.Roy
22. Krishan Kumar
S/o Ram Rattan
23. Tirath Lal
S/o Attar Singh
24. Rajinder Singh
S/o Uday Singh
25. Deepk
S/o Sewa Ram
26. Bihari
S/o Shri Dina
27. K.Ashok
S/o M.Kandaswamy
28. Om Prakash
S/o Ram Bhagwan

(All are the employees of Central Water Commission,
Sewa Bhawan, R.K.Puram, New Delhi.)

... Applicants
(By advocate: Shri B.S.Mainee)

VERSUS

Union of India through :

1. The Secretary,
Ministry of Water Resources,
Shram Shakti Bhawan,
Rafi Marg, New Delhi.
2. The Chairman,
Central Water Commission,
Sewa Bhawan, R.K.Puram,
New Delhi.
3. The Director,
CPC, Directorate of
Central Water Commission,
R.K.Puram, New Delhi.

... Respondents.
(By Advocate: Shri B.S.Jain)

O R D E R (ORAL)

S.A.T.Rizvi:

Applicants, 28 in number, were engaged as casual labourer in 1993 and some in 1994. Their services were utilised mainly for filling water in water coolers.

2. None of them has been allowed to complete 206 days in a year in any of the years they have been working under the respondents. In view of this, temporary status could not be conferred on them in terms of the DOPT's Scheme of 10th September, 1993. This has been done deliberately by the respondents despite a provision made in the Office Memorandum dated 18th April, 2000 (Annexure-B) to the effect that those appointed on casual basis could continue to work upto 206 days in a year. Learned counsel appearing on behalf of the applicant submits that in view of these instructions, the applicants herein could have been allowed to complete 206 days in a year and had that been done, they would have become entitled to temporary status. I do not agree. Firstly, the aforesaid instruction has been issued belatedly on 18th April, 2000 and could be applied only prospectively, and, secondly, it is not possible to interpret the aforesaid instruction to imply that persons, such as the applicants, are, in any case, to be allowed to complete 206 days in a year without any regard to availability of work. These instructions, according to me, simply provide that if work remains available, a particular casual labour could be kept engaged only upto 206 days in a year and, in no case beyond that. Nothing has been shown by the learned counsel so as to convince me that insofar as the applicants herein are concerned enough work remained available in the respondents' set-up in the years in question to keep each one of the applicants engaged for 206 days in a particular year or years. The aforesaid plea taken by the learned counsel is, therefore,

negatived.

3. The learned counsel appearing on behalf of the applicants has also placed reliance on Suresh and Ors. Vs. Union of India and Ors. (ATJ 1992 (2) 110) to contend that the work involved herein could not have been given to a contractor, and accordingly the engagement of contract labour by the respondents for doing the work, which the applicants used to perform as casual labourer, is illegal. I have perused the aforesaid judgement and find that in accordance with the ratio laid down therein, no work can be transferred to a contractor so as to render the applicants surplus. What has thus been brought in dispute is the engagement of contract labour? On the specific issue of engagement of contract labour, however, the applicants had filed MA 843/2002 which has been dismissed on 14th May, 2002, as the engagement of contract labour has not been challenged in the present OA. Thus, if the issue of engagement of contract labour is to be raised, the applicants will have to seek an appropriate remedy separately in accordance with law. In the circumstances, placing of reliance on the aforesaid judgement cannot assist the applicant.

4. Learned counsel appearing on their behalf has next drawn my attention to the assurance held out before this Tribunal on behalf of the respondents on 28.9.2001 in the following directions:-

"The respondents will be willing to re-engage them in future also depending on the availability of work in preference over juniors and freshers. In view of these considerations, I am not prepared to allow the interim order to continue any longer. The same is vacated."



The respondents were, therefore, required to re-engage the applicants in future depending on availability of work and this was to be done by giving preference to them over their juniors and freshers. Instead of honouring the aforesaid commitment, the respondents have, according to him, engaged others in blatant disregard of the same. The respondents refute this allegation. According to the learned counsel appearing on their behalf, the respondents have, on the other hand, not engaged any one at all as casual labour under their employ. Instead they have engaged contract labour through a contractor by calling tenders, and this action on their part cannot be assailed. The contractor has been engaged in accordance with the Contract Labour (Regulation and Abolition) Act, 1971. Moreover, as already noticed, the issue of contract labour could be raised, if at all, in a separate litigation. The learned counsel appearing on their behalf argues that since the respondents have not engaged casual labour directly under them, they cannot be accused of not honouring the assurance held out by them before this Tribunal on 28.9.2001.

5. Admittedly, none of the applicants has completed 206 days in a year. The DOPT's OM in question clearly lays down that only such persons can be granted temporary status as have completed 206 days in a year. In the circumstances, as the things stand, the applicants do not have any right whatsoever to grant of temporary status in accordance with the DOPT's Scheme of 10.9.1993, and, by the same token, no case for regularisation in Group 'D' posts is made out. On consideration, I also find that as

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prayed it is not possible for the Tribunal to give a direction to the respondents to allow the applicants to complete 206 days so as to enable them to acquire temporary status.

6. In the light of the foregoing, I find no merit in the present OA, which is dismissed. No costs.


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

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