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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. NO.2398/2001

New Delhi, this the 21st day of March, 2002

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Netra Pal Singh S/o Shri Prakash Chand,
R/o House No.:404, Mohalla Rampura,
Pilukhuwa, Ghaziabad-201001

.....Applicant
(By Mrs. Rani Chhabra, Advocate)

VERSUS

1. Union of India,
Through its Secretary,
Department of Revenue,
Central Board of Excise and Customs,
New Delhi
2. The Commissioner-I, Customs & Central Excise,
Northern U.P. Commissionerate, Meerut
3. The Commissioner-II (Appeal), Customs &
Central Excise, Region-1
Ghaziabad
4. Additional Commissioner, Customs &
Central Excise, Ghaziabad
5. Administrative Officer/Assistant Commissioner,
Customs & Central Excise III, Ghaziabad
6. Superintendent (Appeals),
Customs & Central Excise,
Ghaziabad

.....Respondents

(By Shri H.K. Gangwani, Advocate)

O R D E R (ORAL)

The applicant in this OA prays for the grant of temporary status to him from the date he became eligible for the same with consequential benefits.

2. Mrs. Rani Chhabra, learned counsel appeared for the applicant and Shri H.K. Gangwani, learned counsel represented the respondents.

3. The applicant was engaged on 1.12.1994 in Customs & Central Excise Office, Ghaziabad as a part time casual

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labour (sweeper), working for 4 hours on a payment of Rs.500/- per month. He worked for 4 years and 9 months, completed 206 days in each year. On 1.10.1999, his status was converted to full time casual labourer on daily wages of Rs.42.50. He continues to be so working. In the above circumstances, his case is covered by the Casual Labourers Grant of Temporary Status and Regularisation Scheme of 1993 once he completed the requisite period of 240 days or 206 days as the case may be. The respondents, however, have not done the same and the applicant is made to languish as a casual worker all these days. Smt. Rani Chhabra, learned counsel, therefore, seeks urgent intervention of the Tribunal in the matter.

4. Arguing on behalf of the respondents, and reiterating their pleas, Shri H.K. Gangwani states that the Scheme of 1993 was not applicable to the applicant as he was not in service in 1993 and the same was one time Scheme. Besides, the applicant was only engaged on part time contact basis for a few days in a year and, therefore, he cannot seek any benefit out of the Scheme even on the ground of completing the requisite period. The OA, therefore, has to be dismissed, according to Shri Gangwani.

5. During the oral submissions, Smt. Rani Chhabra invited my attention to copies of the attendance certificates of the applicant of the relevant period issued by the Superintendent Incharge which show that the applicant was not a part time worker but was a full time worker. In the above circumstances, the respondents'

action in not granting him temporary status was improper and incorrect and calls for issuance of special directions, pleaded Mrs. Rani Chhabra.

6. I have carefully considered the matter. What the applicant seeks by this OA is grant of temporary status to him in terms of the relevant Scheme formulated by the DOP&T on 10.9.1993. The same is, according to the respondents, only a one time measure and the applicant has also not completed the requisite period and that he was only a part time worker. A perusal of the counter affidavit filed by the respondents itself makes it clear that during the period October 2000 to September 2001 i.e. in a period of 12 months he had completed more than 250 days barring a few technical brakes. He has thus, during the period, completed the requisite period for the grant of temporary status in terms of the aforesaid Scheme. The plea of the respondents that the applicant was only a part time worker is also dis-proved by the extracts of the attendance certificates relating to the above period, duly signed by the Superintendent Incharge, which show him to be a full time daily wager. The respondents' plea that the DOP&T's Scheme is only a one time measure is also not correct as has been held on a number of occasions by this Tribunal, duly endorsed by the Hon'ble High Court of Delhi and also the Supreme Court. As the Scheme is found to be an on-going Scheme and as the applicant had worked as a full time daily wager for more than 250 days during the period October 2000 - September 2001, his case definitely deserves to be considered for the grant of temporary status. The respondents' failure to do so was incorrect

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and cannot be endorsed. The applicant should get the benefit in terms of law.

7. In view of the above, the OA succeeds and is accordingly disposed of. The respondents are directed to grant temporary status to the applicant from the date he has completed 206 days during the period October 2000 - September 2001 i.e. a period of 12 months or one year. His regularisation shall follow, strictly in his turn and in accordance with the rules and availability of vacancy. I also direct that from the date he has acquired temporary status he shall be entitled to be paid remuneration on daily basis, working out the same on the minimum of the pay scale of the concerned group 'D' post. No costs

(GOVINDAN S. TAMPI)
MEMBER (A)

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