

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2432/2001

(24)

New Delhi, this the 28th day of May, 2003

Hon'ble Sh. Shanker Raju, Member (J)

Padam Kumar
S/o Sh. Devi Ram
House No.18, Jia Sarai
Hauz Khas
New Delhi.

...Applicant.

(By Advocate : Shri B.B. Rawal)

V E R S U S

1. Union of India
Through Secretary,
Ministry of Civil Aviation,
New Delhi.
2. The Commissioner
Central Excise and Customs,
Directorate of Statistics and Intelligence,
Savitri Cinema Complex,
Greater Kailash-II,
New Delhi. ...Respondents.

(By Advocate : Shri Rajeev Bansal)

O R D E R (ORAL)

Shri Shanker Raju,

Applicant through this OA seeks quashment of verbal order of termination 6.11.2000 with reinstatement and consequential benefits and further regularisation.

2. Applicant, who had been engaged on casual basis to fill water in the coolers in his volition in the absence of regular Driver, who was on leave, offered his services as a Driver. Applicant had worked with the respondents from March, 1999 to November, 2000 with breaks and had completed 206 days in a year. His services were dispensed by a verbal order on 6.11.2000. On filing representation, the same was disposed of giving rise to the present OA.

3. Shri B.B.Raval in this OA contended as the applicant had worked as a Driver which is work of a permanent nature, he should have been appointed as regular Driver.

4. It is further stated that the impugned action has been taken without a show-cause notice and also without assigning any reason is arbitrary and illegal.

5. On the other Shri Rajeev Bansal, learned counsel of respondents, strongly rebutted the contention and stated that assuming the applicant had worked as a Driver which is Group 'C' post, nobody can be regularised de hors the Recruitment Rules. It is in this conspectus stated that the applicant though primarily was engaged to fill water in coolers was paid accordingly. Since the regular Driver was on leave on his own volition applicant had driven vehicle which does not entitle him for regularisation against the said post. Further it is contended that in so far as temporary status is concerned, as the DOPT's Scheme has been held one time measure by Apex Court in Union of India and Ors. Vs. Mohan Pal 20002 (4) Scale 216, applicant's claim is liable to be rejected.

6. Shri Bansal further stated that in the event any work of casual nature is available in future applicant would be considered in preference to his juniors and freshers for Group 'D' posts. However, it shall be open to him to compete with others for appointment to Group 'C' posts with selection.

7. I have carefully considered the rival contention of the parties and perused the material on record.

(3)

8. As the applicant was engaged to fill water in coolers and paid accordingly performance of duties of a Driver in contingency work on his own volition would not confer any right upon to him to claim for regularisation against group 'C' posts which would be in violation of the Recruitment Rules.

9. In so far as termination is concerned, it is settled principle of law that if the work on casual basis is not available, the casual worker has no right to seek reinstatement and continuance.

10. In so far as completion of 206 days of a casual basis and temporary status is concerned, as the applicant was not in engagement on 1.9.1993 in the light of decision in Mohan Pal (supra) he cannot be accorded temporary status.

11. Though bereft of merit, OA is disposed of in the interests of justice with the direction to the respondents that in the event any work of casual basis is available in future, applicant shall be considered for engagement in accordance with the rules and instructions subject to his suitability in preference to his juniors and outsiders. It shall also be open to the applicant to compete in selection as per Recruitment Rules alongwith others for appointment to Group 'C' post. OA is disposed of accordingly. No costs.



(SHANKER RAJU)
MEMBER (J)

/kdr/