

(P)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. NO. 2473/2001

NEW DELHI THIS. 31st. DAY OF JANUARY 2002

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

Sh. Amrit Lal S/o Sh. Dujal Lal,
Mali cum Frash,
in Patel Nagar Post Office,
C/o Sant Lal, Advocate, C-21(B) New Delhi

.....Applicant
(By Shri Sant Lal, Advocate)

VERSUS

1. The Union of India through Secretary,
Min. of Communication, Deptt. of Posts,
Dak Bhawan, New Delhi
2. The Sr. Supdt. of Post Offices,
New Delhi Central Division,
Meghdoot Bhawan, New Delhi
3. The Sub Pstmaster (HSG-III)
Patel Nagar Post Office,
New Delhi

.....Respondents
(By Shri R P Ralhan, Advocate)

O R D E R (ORAL)

Applicant in this OA seeks the following reliefs:

i) to declare that the Postal Scheme of April 91
for grant of Temporary Status & Regularisation Scheme is an
on-going scheme as held in the case of GOI Scheme of 1993
or in the absence of the Postal Scheme the casual workers
of Postal dept, engaged/recruited after 1.9.93 would be
governed by the GOI scheme of 1993 as held by the Ernakulam
Bench of CAT;

ii) to direct the respondents to grant Temporary
Status from due date in accordance with the scheme and also
to consider for his regularisation against the NTC Post of

---2/-

b

-2-

Mali-cum-Farash or any other post of NTC in Group 'D' cadre to which he is entitled in accordance with the Recruitment Rules and instructions;

iii) to grant all consequential benefits;

iv) to grant such other or further reliefs as this Hon'ble Tribunal deem fit in the interest of justice;

v) to award costs of this application.

2. Heard S/Shri Sant Lal and R P Ralhan learned counsel appearing for the applicant and the respondents respectively.

3. The applicant has been working as Mali in Patel Nagar, Post Office on part time basis from 2.4.90 and on full time basis from 1.4.98. Following the decision of the Ministry of Telecommunication to provide full time employment to part time employees by combining part time jobs, 35 posts in Delhi Circle were converted to 17 full time job and the applicant became a Mali cum Farash against one of those posts from 1.4.98. In accordance with Recruitment Rules, full time casual workers who had worked for 240 days in any two years and part time casual workers with 240 days in any of four years, are eligible for regularisation and for this purpose seniority is maintained in a combined manner. Following directions of Hon'ble Supreme court in Daily Rated Casual workers of P&T Versus UOI and others (1988 (2) SLJ 31), Deptt. of Posts formulated Casual Labourers Grant of Temporary Status and Regularisation) Scheme on 12.4.91, in terms of which these who had worked for 240 days in a year could be treated as

-- .3/-

-3-

eligible for Temporary Status, provided they were in employment on 29.11.89. This was made applicable on 1.11.95 to those joined upto 10.9.93, also in tune with DoPT's Scheme, following the decision dated 13.3.95 the Ernakulam Bench of the Tribunal in OA No. 750/94. Principal Bench of the Tribunal had held that DoPT's Scheme was an on-going measure, a finding duly endorsed by the Hon'ble Delhi High Court in CWP 5453/94 (UOI & Anr Vs Rakesh Kumar) and the Hon'ble Apex Court in SLP 3685/2000. In the same analogy the Postal Scheme should be treated as an on going scheme. The applicant's representation dated 22.1.2001, for grant of temporary Status and regularisation did not evoke any response . Hence this OA.

4. Reiterating the above during the oral submissions the learned counsel for the applicant, Sh. Sant Lal states that the inaction of the respondents in not granting temporary status , even after eight years of part time service and three years of full time service was arbitrary, discriminatory and violative articles 14 and 16 of the Constitution. The applicant's case is squarely covered by the Postal Scheme on grant of temporary status of 12.4.91, extended by the letter of 8.11.95 and read with DoPT's Scheme of 10.9.93 and still he has not bee granted temporary station and regularisation, in spite of his repeated representation. He also relied upon the decision of the Full bench decision of the Tribunal dated 3.10.2001 of Chandigarh in OA No. 1146-HP-96, holding the Casual Labourers (Grant of Temporary Status & Regularisation) Scheme , 1989 to be an on-going scheme , which fully supported his position.

-- 4/ -



-4-

5. In his reply on behalf of the respondents, Sh. R P Relhan learned counsel does not dispute the facts but avers that the applicant was not grant temporary status as the Scheme for grant of temporary Status was applicable to only those who were engaged upto 1.9.93 in term of P&T Directorate order/ letter No. 66-52/92-SPB-I dated 1.1.95 while the applicant became a full Civil worker on 1.4.98. He also states that the applicant was not engaged through Employment exchange. It is further pointed out that the applicant could not clear the test as he was illiterate. The O.A. therefore has no merit according to the learned counsel.

6. I have carefully considered the matter. The applicant who has been working as a part time Mali from 1990 and as a full time Mali-cum-Farash since 1.4.98, has come challenging denial of grant of temporary status and regularisation to him, in terms of the Scheme promulgated by the respondents. The main response by the Deptt. is that the scheme for grant of temporary status/regularisation is applicable only to those persons who were in position as full time casual workers as on 1.9.93, whereas the applicant became a full time Casual Worker only on 1.4.98. Full Bench decision of the Tribunal, announced at Chandigarh on 3.10.2001, in OA 1146-HP-96 filed by Bhuri Singh and anr Vs. Union of India & Ors. has clearly exposed the fallacy of the respondents claim. It has been held that "the 'Casual Labourers (Grant of Temporary Status and Regularisation) Scheme ' of the

-57-

-5-

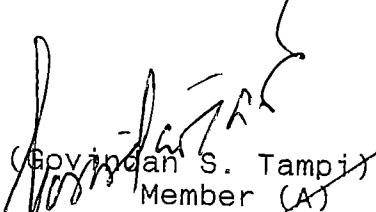
department of telecommunications is not a one time scheme applicable to such casual labourers who were employed prior to and continued to be employed as on 1.10.1989 but the same is a continuous scheme which will be applicable also to casual labourers who are employed thereafter." The Full Bench has while arriving at the above finding relied upon the decision of the Hon'ble Apex Court in the cases of Daily Rated Casual Labour employed under P&T Deptt through Bhartiya Dak Tar Mazdoor Manch Vs UOI and Others (AIR 1987 SC 2342), leading to the formulation of the above scheme as well as State of Haryana Vs Piara singh (1992 SCSLJ 456) . As the Scheme has been held to be an on going measure, respondents cannot deny grant of temporary status to the applicant, on the plea that he became a full time casual worker only on 1.4.98. He is entitled to grant of temporary status from the day he has completed 240 days in a year and for regularisation in turn subject to availability of vacancy. It is also pertinent to mention that he was only made a full time casual worker on creation of a post, which was one of 17 posts ^{formed} ~~enacted~~ by merging duties of 35 part time posts. The respondents averment that he was not sponsored through Employment Exchange is totally irrelevant ^{and} is an objection which has come too late in the day. Question of his not being cleared the trade test is beside the point as the job of Mali-cum-Farash belongs to non test category. Evidently therefore respondents have no case at all and their inaction in denying the grant of temporary status to the applicant was clearly in the wrong. The same has to be set aright to render justice.

--6/-

-6-

(P)

7. In the result the OA succeeds and is accordingly allowed. The respondents are directed to consider the grant of temporary status to the applicant in terms of the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989, which has been declared an on-going scheme, in terms of the order of the Full bench of the Tribunal in OA No.. 1146-HP-96, dated 3.10.2001. His regularisation shall follow in turn, and in accordance with the terms of the Scheme. O.A. is disposed of in the above terms. No costs.


(Govindan S. Tampi)
Member (A)

Patwal/