

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 3007/2001

New Delhi, this the 9th day of August, 2002

Hon'ble Sh. Govindan S. Tampi, Member (A)

Sh. Subey Singh
S/o Sh. Richpal Singh
R/o House No.58
Rishi Kardampuri
Shahdara
Delhi - 110 032.

...Applicant

(By Advocate Ms. Ritu Jain)

V E R S U S

1. Govt. of NCT of Delhi
through Secretary (Services)
New Secretariat Building
Indraprastha Estate
Delhi.
2. The State Election Commission
through Secretary
Nigam Bhawan, I Floor
Kashmere Gate,
Delhi - 110 006.

...Respondents

(By Advocate Ms. Jasmine Ahmed)

O R D E R (ORAL)

By Sh. Govindan S. Tampi,

Relief sought for by the applicant in this OA
are as below :-

i) direct the respondents to consider the
applicant for regularisation in the post of the Driver
w.e.f. 10-12-1993 with all consequential benefits
including the arrears of salary etc. in terms of the
order dated 22-9-1998 of this Hon'ble Tribunal in OA
2670/1997 entitled Sh. Subey Singh Vs. Govt. of NCT
of Delhi & Ors. ;

(ii) direct the Respondents to consider the
case of the applicant for treating him as casual/daily
rated employee with temporary status in terms of the

office memorandum dated 20.09.1993 w.e.f. 10.12.1993 with all consequential benefits including the arrears of salary etc.

(iii) direct the Respondents to consider the case of the Applicant for treating him as casual/daily rated employee with temporary status in accordance with the provisions of the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993 w.e.f. 10.12.1993 with all arrears of salary etc. on the same terms and condition as incorporated in the similar case i.e. OA No. 210 of 1998 entitled 'Shri Pradeep Kumar Versus the Government of NCT of Delhi and Anr.' as decided vide order dated 27th August, 1998 of this Hon'ble Tribunal.

(iv) pass any such further order or direction as this Hon'ble Tribunal may in the facts and circumstances of the case deems fit and proper in favour of the Applicant and against the Respondents;

(v) this Hon'ble Tribunal may be pleased to allow the present application with costs.

2. Heard Ms. Ritu Jain and Mrs. Jasmine Ahmed, ld. counsel for the applicant and the respondents respectively.

3. The applicant who belongs to SC category has been working as Driver on daily rated basis with Election Commission, Delhi since 10-12-1993 uninterruptedly. As he apprehended termination of his

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service w.e.f. 25-11-1997, he approached the Tribunal in OA 2670/1997 which was disposed of on 11-9-98, directing, inter alia, that Election Commission, Govt. of NCT of Delhi should consider the regularisation of the applicant in accordance with rules and instructions on the subject and in turn as per the seniority. In a similar case, i.e. OA 210/98, filed by Pradeep Kumar Vs. Govt. of NCT of Delhi & Anr., on 27-8-98, Tribunal directed the respondents to grant the applicant temporary status in terms of DOPT Scheme of 1993. In spite of the above, the applicant has not been regularised for the post of Driver nor has been granted temporary status. His representations for the above have also not been responded to. Hence this OA.

4. Ms. Ritu Jain, ld. counsel appearing for the applicant has submitted that he was entitled to all the benefits of regularisation from 10-12-1993 with full consequential benefits, including arrears in terms of Tribunal's order dated 11-9-98 in OA 2670/97. She also stated that it was the duty of the respondents to have created the post of Driver in the State Election Commission and to adjust the applicant against the same, keeping in mind his long service. OA, therefore, deserves to be allowed, she prayed.

5. Opposing the plea made by the applicant, Ms. Jasmine Ahmed, ld. counsel for the respondents stated that as the respondents' organisation did not have any post of Driver and, therefore, the work was being got done by engaging casual labourers including Driver for short duration not exceeding 89 days at a time, but the arrangement was extended from time to

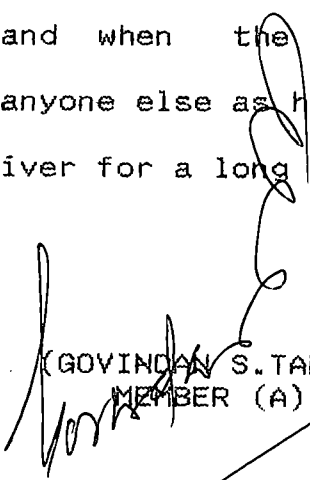
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time. She does not deny that the applicant has been working with the respondents' organisation from 10-12-1993 as a daily rated worker and attending to driving. He has not been given any assurance for his absorption as regular Driver but the respondents are prepared to consider his case when regular post of Driver is sanctioned in their organisation. OA, therefore, does not merit acceptance, she pleads. She has also produced before me a copy of letter dated 12-10-2001, creating 17 posts in the office of the State Election Commissioner which did not include any post of Driver. Respondent cannot, therefore, regularise services of the applicant as Driver, she argued.

6. I have carefully considered the matter. The applicant is seeking regularisation as Driver as he has been working as a daily rated casual worker, performing the duties of Driver in the respondents' organisation since 10-12-1993. Though, he has indicated that he has been working in a uninterrupted manner, the fact is that he has been working on broken spells of 89 days from December 1993 till today. Tribunal had, in its order dated 11-9-98 in OA 2670/97, filed by the applicant, directed the respondents to consider his case for regularisation with the post is sanctioned, in accordance with law, and in strict order of his seniority. As no post of Driver has been sanctioned as yet, regularising him as Driver does not immediately arise. Grant of temporary status/regularisation as Driver does not arise as the DOPT Scheme of 1993 does not cover group 'C' post like Driver, but only relates to casual workers. There

also the applicant's case for temporary status/regularisation would suffer as he was not in position when the Scheme was formulated on 10-9-93. Therefore, the only relief which can be granted is the reiteration of the decision of the Tribunal dated 11-9-98 that his case be considered for regularisation as Driver as and when the post of Driver sanctioned, on priority, keeping in mind his long service. Respondents are also agreeable to this.

7. In the above circumstances, the OA succeeds partially and is accordingly allowed. The decision of the Tribunal dated 11-9-98 in OA 2670/97 is reiterated and the respondents are directed to consider the case of the applicant for regularisation as Driver as and when the post sanctioned in preference to anyone else as he has been performing the duties of Driver for a long time. No costs.


(GOVINDAN S. TAMPI)
MEMBER (A)

/vksn/

