

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.331/2001

Hon'ble Shri Shanker Raju, Member (J)

New Delhi, this the 16th day of August, 2001

Shri Fokal
s/o Shri Radhey Prasad Yadav
r/o House No.23, Gali No.1
Shanti Nagar
Shanti Mohalla Mandawli-Fazalpur
Delhi - 92. ... Applicant

(By Advocate: Shri M.Mohsin Irraily)

Vs.

1. State of Delhi
through the Lt. Governor
Raj Niwas
Delhi.
2. Flood Control & Drainage
Division No.III, through its
Executive Engineer
L.M.Bundh Office Complex
Shastri Nagar
Delhi. ... Respondents

(By Advocate: Shri P.P.Relhan, proxy of Shri
J.B.Mudgil)

O R D E R(Oral)

By Shanker Raju, Member (J):

Heard the learned counsel of the applicant and the respondents. The applicant has assailed an action of the respondents whereby despite his reinstatement, he has not been considered for accord of temporary status and further regularisation as per the Scheme of DoPT applicable to him also.

2. Briefly stated, the applicant who is stated to have been worked with the respondents from 16.11.1984 to 15.10.1985, his services have been dispensed with to which he raised his grievances before the Industrial Tribunal in turn the the Industrial Tribunal concluded by an award on 4.7.1997

- 2 -

whereby it has been held that the termination of the applicant was illegal and the applicant has been made entitled for reinstatement as well as back-wages. 7

3. The aforesaid award was carried in civil Writ Petition No.4718/97 by the respondents before the High Court of Delhi where by an order dated 12.8.1998 though no stay has been accorded on reinstatement but the operation of the award pertaining to the back wages has been stayed. Later on the applicant was reinstated in service in compliance of the directions of the Hon'ble High Court on 9.10.1998 and since it is stated that he is continuously working, the applicant has sought a modification by filing a CM No. 6796/2000 in CWP No.4718/1997 before the High Court and by an order dated 8.9.2000 it is observed that if the applicant has been denied any benefit to which he is entitled consequent on his reinstatement in the service, he will have to raise such claims independently. In this back ground it is stated that the relief now sought for regularisation can be gone into by this Tribunal irrespective of the pendency of the Civil Writ Petition.

4. The learned counsel of the applicant referring to the Scheme of DoPT stated that as he had worked for 206 days, even after his reinstatement, and before that after the Scheme had come into operation in the year 1993, which is now observed to be an ongoing Scheme, he is entitled for grant of temporary status and regularisation and other consequential benefits as admissible to him.

5. The learned counsel of the applicant has also stated that he has not been accorded the equal pay despite he has been working and performing the duties of the equal status.

8

6. On the other hand, strongly rebutting the contentions of the applicant, though admitting the fact of applicant having worked from 16.11.1984 to 15.10.1985 and after reinstatement in 1998 mainly it is contended that as the Civil Writ Petition supra is subjudice before the Hon'ble High Court, the request for regularisation of the applicant would be considered after the Writ Petition is finally concluded. It is also denied that the applicant has been performing the identical work as performed by the regular employees. It is also denied that the juniors of the applicant has been regularised. It is lastly contended that the applicant is now raising an issue after about four years, he is not entitled for the relief as claimed by him.

7. The learned counsel for the applicant had also filed rejoinder reiterating the pleas taken by him in the present OA.

8. I have carefully considered the rival contentions of the parties and perused the material on record. As regards the prayer of the applicant for consideration for regularisation in accordance with the claim is concerned, this OA can be entertained as per the rules and in view of the clarification issued by the Hon'ble High Court of Delhi whereby the applicant was accorded an opportunity to assail any

consequential relief independently of which is subjudice before the High Court. In fact, the only issue which remains before the High Court is regarding the back wages on which the impugned order, i.e., the Tribunal's order, has been stayed. In compliance the respondents have reinstated the applicant in service. As the respondents have raised and have objected to the working period w.e.f. 16.11.1984, I find from the record that since 1998 the applicant admittedly has been appointed as a casual labour and has rendered more than 206 days in each year which entitled him for being considered for grant of temporary status under the DoPT Scheme and thereafter regularisation subject to the availability of the vacancies and subject to the applicant's being eligible and in accordance with the Scheme. The respondents have illegally not consider the claim of the applicant for accord of temporary status and regularisation after it is due, for that the applicant confirms to the eligibility criteria, this relief as such cannot be deprived to him on the pretext that a Writ Petition is pending before the High Court. However, it is incumbent upon the respondents to consider him for grant of temporary status and regularisation during the pendency of Writ Petition and subject to its final out come. As normally takes long for its disposal.

9. Having regard to the claim made above, it would be just and proper in the interest of justice to dispose of this OA with a direction to the respondents to consider the applicant's case for accord of temporary status as per the DoPT's Scheme and also regularise him thereafter, subject to the availability

-5-

of vacancies, the respondents in this process are free to probe into the eligibility of the applicant and as his confirming to the laid down standards and guide-lines in the Scheme. In case the applicant is found fit for accord of temporary status and regularisation, he would be accorded the same subject to the decision of the Writ Petition No.4718/97. The respondents are directed to comply with the above directions within a period of two months from the date of receipt of a copy of this order. The OA is accordingly disposed of.

S. Raju

(SHANKER RAJU)
MEMBER(J)

/RAO/