

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.3454/2001

New Delhi, this the 27th day of May, 2002

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

1. Kendrapal
2. Arun Saxena
3. Jasbir
4. Babulal
5. Satishkumar
6. Ramphool

All applicants C/o Shri Brij Pal,
D-1/324, Sultan Puri, Delhi

(By Advocate Shri M.L. Chawla)

... Applicants

Versus

1. Lt. Governor,
Through the Chief Secretary,
Govt. of N.C.T. Secretariate of
Delhi Administration, Delhi
2. Public Grievance Commission,
Through Chairman,
Govt. of NCT Delhi
M Block 2nd Floor, Vikas Bhawan,
New Delhi - 110 002
3. Delhi Finance Commission,
M Block, Second Floor, Vikas Bhawan,
I.P. Estate, New Delhi-110 002

(By Advocate Shri George Parackan)

... Respondents

O R D E R

By Hon'ble Shri Govindan S.Tampi,

Conferment of temporary status with all the attendant benefits is the relief sought in this OA.

2. MA 2861/2001 for joining allowed. MA 209/2002 for summoning the record has become infructuous.

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3. Heard S/Shri M.L. Chawla and George Paracken, learned counsel for the applicant and the respondents respectively.

4. All the applicants have been working with respondents organisation as casual labourers on daily wages @ of Rs.82.50 per day since 1998-99 and must have completed 206 days in a year, and have thus become eligible for grant of temporary status. However, the same has not been given to them and they are being made to languish in the casual labour stage. The applicants had also been put on technical breaks in between only to ensure that they do not complete the requisite period of 206 days. These breaks should be over-looked and the applicants be treated as having worked during the period and given the consequential benefits, as held in the case of Dr. Sangeeta Narang & Others Vs. Delhi Administration & Others (1988 (1) CAT 556), pleads the applicants.

5. On behalf of the respondents, it is pointed out that Public Grievance Commission (PGC) where the applicants were working ^{2 was an organisational run} on an experimental basis, and the recruitment rules were not framed, ad hoc employees were taken in, but their services were dispensed with before they complete 206 days in a year. A fresh batch was the thereafter taken. This has been done with the due sanction of the Govt. of N.C.T. In all 9 persons were employed in this manner. Out of these 5 are working and 4 are awaiting their turn. Most of these also do not satisfy the educational qualifications as per the recruitment rules and few are overaged as well. In terms of Delhi

Govt.'s letter No.F.3/50/2001/ S-II/7369-7373 dated 11.1.2001, all the surplus employees have to be absorbed before anyone ^{else} can be considered. On account of interim order dated 28.12.2001., two of the daily wagers would be completing 206 days and any extension thereafter would give them entitlement for temporary status. As of now, none of the applicants has completed 206 days of actual work in a year for being granted temporary status. The applicants had been engaged only as Peons and not as Peon Chowkidars as claimed. If a person who was surplus in an organisation as the set up was itself was wound up and was subsequently re-engaged elsewhere, this is only a fresh engagement and continuity cannot be claimed from the earlier engagement. OA, in the above circumstances, shall have to fail, pleads Shri George Paracken.

6. During the oral submissions both Shri Chawla and Shri Paracken forcefully reiterated the pleas. While according to Shri Chawla the applicants had completed the requisite period for grant of temporary status. Shri Paracken disputed it vociferously. ~~As~~ the rival claims were unrelented and as if appeared that there was some mistake in the computation of days. I had desired that the relevant records be produced for my perusal, which Shri Paracken did.

7. I have carefully considered the matter. The point for determination is the eligibility of the applicants for grant of temporary status. The applicants state that inspite of irregular and

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arbitrary technical breaks ordered by the respondents, all the applicants have completed the requisite period of 206 days in a year, enabling them gain temporary status which is strongly disputed by the respondents, who have made it clear in their averments that they had taken care to see that none completes 206 days in a year to claim temporary status. The evidence produced by them is in tune with the above. In terms of the annexure to the counter, none of the applicants had completed 206 days in any of ;the years 19988-99, 1999-2000, 2000- 2001 though most of them had touched 205 days. This had been on account of the breaks consciously given by the respondents, but the breaks are of more than four months duration and the same cannot be overlooked. The revised statement submitted subsequently shows that none except applicant no.2 Shri Arun Saxena had completed 200 days in any of the four calender years 1998, 99, 2000 and 2001. Saxena had completed 212 days in 1999 itself. The revised figures are based on the detailed work sheet and cannot be called in question on accuracy. That being the case excepting the applicant no.2 Arun Saxena, the applicants have not qualified themselves to be granted temporary status by putting in the requisite service of 206 days in a year - in a period of 12 continuous months. Therefore, their case for grant of temporary status cannot be endorsed in law.

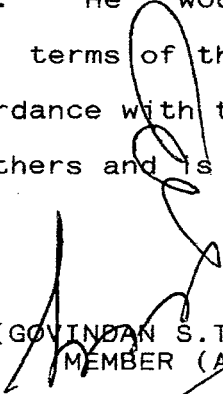
8. It is likely that on account of the interim stay granted on 2.12.2000 one or two of the applicants would have reached the requisite figure of 206 days. The same does not given them any special right and in the order dated 11.1.2002, while

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continuing the interim stay. I had directed that the extra days the applicants will be working on account of the interim order would not be included in the calculation of requisite period for grant of temporary status.

9. In the result, the appeal succeeds but only very marginally and is accordingly disposed of. Respondents are directed to grant temporary status to applicant no.2 Arun Kumar or Arun Saxena, at the end of 1999, when he completed the requisite period of 206 days, as per respondents' own version, and grant him pay at the minimum of the pay scale for Peon for the period he worked thereafter. He should get arrears of pay from 28.12.2000, one year prior to the date of filing this OA. He would be entitled for regularisation in terms of the same scheme, in his turn and in accordance with the rules. OA fails in respect of all others and is accordingly dismissed. No costs.


(GOVINDAN S. TAMPI)
MEMBER (A)