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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 756/2001

New Delhi, this the 6th day of June, 2002

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

1. Sh.Karanpal,
House No.1859,
Ravi DasBasti,
Kotla Mubarakpur,
New Delhi-110003.
2. Sh. Lekh Raj
House No.B-278,
Kondli Subzi Mandi,
Delhi-110096.
3. Sh. Surinder
House No.B-276,
Kondli Subzi Mandi,
Delhi-110096.
4. Sh.Keshav Ram
D/48, Tripathi Enclave,
Prem Nagar,
New Delhi-110042. ...Applicants

(By Advocate Sh. G. Srivastava) For

V E R S U S

UNION OF INDIA : THROUGH

1. The Director General,
Archaeological Survey of India,
11, Janpath,
New Delhi.
 2. Union of India
Through the Director,
Archaeological Survey of India,
24, Tilak Marg,
New Delhi-110001. ...Respondents
- (By Advocate Shri S.M.Arif)

O R D E R

By Hon'ble Shri Govindan S.Tampi,

Inaction of the respondents in granting temporary status/regularisation to the applicant in terms of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, notified by DOP&T's OM

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No.51010/2/90-ESst.(c) dated 10.09.1993, is sought to be assailed by this OA. MA No.632/01 for joining is allowed.

2. Heard S/Shri U. Srivastava (alongwith Shri Ajay Sharma) and S. Mohd. Arif, learned counsel for the applicant and the respondents respectively.

3. The applicants have been working with the respondents as Casual Workers - two of them from January, 1997 and two others from November, 1999 - on daily wages, but their services have been terminated w.e.f. 18.10.2000. All of them had been originally sponsored by the Employment Exchange and have completed the requisite period of 206 days, to and have become eligible for grant of temporary status, with all attendant benefits like fixation of pay, increment, leave entitlement including maternity leave to female workers, counting half of temporary service towards pension, productivity, linked bonus etc. Instead of providing the above as prescribed in law, the services of the applicants have been arbitrarily dispensed with, w.e.f. 18.10.2000 and even without paying the wages of September & October, 2000. Applicants representations, have fallen on deaf years, forcing them to come to the Tribunal, seeking benefit of Tribunal's own order dated 12.10.2000 in OA No.882/1999, filed by Santosh Singh & Anr. Vs. UOI. Grounds raised in the OA are the applicant's eligibility for grant of temporary status/regularisation, discrimination vis-a-vis those in other Ministries and Departments, applicants

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entitlement for grant of all benefits fundamental right of employment, failure of the respondents to follow the scheme, failure of the respondents to act as model employers etc. All the points were reiterated by Sh. U. Srivastava, learned counsel for the applicants who prayed for their immediate re-engagement grant of temporary status and regularisation with the necessary benefits. He had also relied upon the decisions of the Principal Bench of the Tribunal dated 27.01.2000 in OA No.210/98- filed by Geeta Sagar dated 23.03.2001 in OA No. 1103/1999 filed by Virender Singh & Others and of Hon'ble Delhi High Court in CWP No.3266/2001.

4. In the reply filed on behalf of the respondents, it is pointed out that only those casual labourers, engaged through Employment Exchange who have completed 240 days or 206 days and were in position on 10.09.1993, when the DOPT's scheme was notified were entitled for the grant of temporary status. The applicants not fulfilling the above conditions have no case at all. It was not correct to say that the applicants were engaged after completing the necessary formalities, as claimed, as the applicants were engaged only on a need based approach. Nothing further be read into it. Their case is not covered by the DOPT's scheme dated 10.09.1993 and the engagement of the applicants has been objected by the Audit as being against the instructions. While it was true that 10 Casual Workers had been engaged but the same was in terms of the directions of the Tribunal in

OA No.2473/2000 applicants have no case, whatsoever and the OA merits dismissal, prays Shri S.M.Arif, learned counsel.

5. I have considered the matter. Point for determination in this OA is the grant of temporary status with attendant facilities/regularisation of the applicants, in terms of scheme for grant of temporary status and regularisation to Casual Workers, notified by the DOPT's OM No.51016/2/90-Estt.(C) dated 10.9.93. The position in law relating to the said Scheme has been clarified and settled by the Hon'ble Supreme Court on 29-4-02 while disposing of the case of UOI Vs. Mohan Pal (2002 (4) SCALE) Relevant portion of the order lays down as below:-

"5.The first question is to be decided on the basis of the interpretation of clause 4 of the Scheme. As already noticed, the scheme came into effect from 1-9-1993. Clause 4 (1) of the Scheme reads as follows :-

'temporary' status - (1) 'temporary' status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of office observing 5 days week)."

6. Clause 4 of the Scheme is very clear that the conferment of 'temporary' status is to be given to the casual labourers who were in employment as on the date of commencement of the Scheme. Some of the Central Administrative Tribunals took the view that this is an ongoing Scheme and as and when casual labourers complete 240 days of work in a year or 206 days (in case of offices observing 5 days a week), they are entitled to get 'temporary' status. We do not think that clause 4 of the Scheme envisages it as an ongoing Scheme. In order to acquire 'temporary' status, the casual labourer should have been in employment as on the date of commencement of the Scheme and he should have also rendered a continuous service of at least one year which means that he should have been engaged for a period of at least 240 days in a

year or 206 days in case of offices observing 5 days a week. From clause 4 of the Scheme, it does not appear to be a general guideline to be applied for the purpose of giving 'temporary' status to all the casual workers, as and when they complete one year's continuous service. Of course, it is up to the Union Government to formulate any scheme as and when it is found necessary that the casual labourers are to be given 'temporary' status and later they are to be absorbed in Group D posts.

Obviously, therefore, the applicants who seek grant of temporary status should have fulfilled two conditions i.e. they should have completed 240 or 206 days in a year and they should have been in position on 10.9.93. When the DOPT's Scheme was notified. None of the four applicants in the OA had been engaged and had been in service on or before 10.9.93. That being the case, they do not at all fall within the purview of the Scheme. They cannot therefore claim the benefit under the Scheme and cannot ~~avail~~^{assail} the orders of the respondents disposing with their services, as the letter had acted correctly and in law.

6. In the result, I am convinced that the applicants have not made out any case in law for the Tribunal's interference. OA therefore fails and is accordingly dismissed. No costs.

(Govindan S. Tampi)
Member (A)