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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.849/2001

New Delhi this the 30th day of October, 2001.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Shri Balbir,
S/o Shri Udmi Ram,
R/O RZ-209, Gali No.16,
Shiv Block,
New Delhi-110 045.

-Applicant

(By Advocate Shri B.S. Mainee)

-Versus-

Union of India through:

1. The Chairman,
Central Water Commission,
Sewa Bhawan,
R.K. Puram,
New Delhi.

2. The Director,
PCP Directorate,
Central Water Commission,
R.K. Puram,
New Delhi.

-Respondents

(By Advocate Shri Rajeev Bansal)

O R D E R

By Mr. Shanker Raju, Member (J):

The applicant in this OA has assailed an oral order passed by the respondents dispensing with the services of the applicant on 31.10.2000. He claims benefit of the judgement of this Tribunal in OA-1623/2000 Shri Brahma Singh and 27 Others and OA No.153/2000 Shri Yog Raj and 18 others and has sought his re-engagement with all consequential benefits.

2. Briefly stated, the applicant was engaged as a casual labour in May, 1993. His name stands at serial No.65 in the list of casual labours engaged with the respondents. The applicant has been sponsored through Employment Exchange. The services of the applicants have been dispensed with on 31.10.2000.

3. The learned counsel for the applicant Shri B.S. Mainee has contended that the working of the office is of five day week and before completing 206 days as the services of the applicants have been terminated arbitrarily it is contended that the others who have approached this court earlier have been accorded temporary status and the applicant has been meted out a differential treatment. The Scheme of the DOPT dated 10.9.93 being on going is applicable to the applicant. It is stated that on 24.4.2001 the applicant has been re-engaged but against disengaged on 15.9.2001. It is stated that after recent assessment of regular vacancies the respondents are having 52 vacancies to be filled up from the list of casual labours. Had these vacancies been filled up for the year 1998-99 the applicant's services would not have been terminated. The learned counsel for the applicant though not prayed for accord of temporary status specifically and has not taken any pleadings to this regard, stated that as the office is of five day week the applicant is entitled for accord of one weekly off and this be included towards computing the number of working days and for this he places reliance on a decision of this Court in Shakuntla Devi v. Secy., Deptt. of Food, Ministry of Food and Civil Supplies, 1991 (18) ATC 142 (II) wherein placing reliance on a decision of the Apex Court in H.D. Singh v. Reserve Bank of India, AIR 1986 SC 132 it has been decided that the applicants daily wagers are entitled to reckon Sundays and holidays for computing number of 206 days. Further reliance has been placed on a decision of this Court in Titu Ram & Ors. v. Union of India & Anr. (OA No.334/2001) decided on 12.9.2001 wherein the respondents

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have been directed to accord to the applicants a weekly off for the purpose of computing number of days for accord of temporary status.

4. On the other hand, strongly rebutting the contentions of the learned counsel for the applicant, the learned counsel for the respondents stated that nowhere in the OA the applicant has taken the plea of weekly off and has not prayed for accord of temporary status. It is also stated that the applicant has been engaged for filling up water in the cooler and its maintenance which is not required after summer season as such he was disengaged on 20.9.2000. It is also stated that the applicant has never completed 206 days in a calendar year and was engaged intermittently depending on the availability of work. As regards the OAs placed reliance by the learned counsel for the applicant it is contended that the same have no application in his case, as therein the applicants have already completed 206 days and as such they were accorded temporary status. It is also stated that though there are 52 vacancies with the respondents in Group 'D' but recruitment to the same would be in accordance with the rules and rules do not provide filling up of these vacancies from casual labours engaged for short-term work.

5. In the rejoinder the applicant has re-iterated his pleas taken in the OA.

6. I have carefully considered the rival contentions of the parties and perused the material on record. It is an admitted position that nowhere in his OA the applicant has taken the plea that the weekly off should

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be reckoned for the purpose of computing 206 days. However, his reliance on a decision of this Court in Titu Ram (supra) where the decision of Shakuntla Devi (supra) was taken into consideration was in the facts and circumstances of the case where the respondents office was for six days and the applicants had been accorded the benefit of weekly off. The facts and circumstances of the present case are distinguishable from that of the OAs (supra). The respondents office is five days and the applicant is working for five days as such he is not to be accorded the benefit of weekly off. In this view of the matter the contention of the applicant is rejected.

7. However, the other contention of the applicant that he is entitled for the benefit as accorded to the applicants in OAs 1623/2000 and 153/2000 is concerned, the same is also not applicable, as therein, admittedly the applicants have completed 206 days, he is not entitled for accord of temporary status. As regards the disengagement of the applicant is concerned, the same does not suffer from any infirmity as the applicant has been engaged on casual basis for filling up of water in coolers during the summer season and was further engaged on 24.4.2001. As the respondents have no availability of work his services have been dispensed with. As regards his claim to consider him for regularisation against the 52 vacancies the same have to be filled up in accordance with the recruitment rules and the rules do not provide for consideration of casual labours engaged for short-term work against the post. In this view of the matter the applicant has no justifiable claim for re-engagement in service.

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8. In the result, for the foregoing reasons the OA is found bereft of merit and is dismissed. However, it goes without saying that in the event the respondents have work of casual nature the applicant shall be considered for re-engagement, in preference to the juniors and outsiders. No costs.



(Shanker Raju)
Member (J)

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