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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1204/1999

HON'BLE DR. A. VEDAVALLI, MEMBER(J)

New Delhi, the 31st January, 2000

Anant Ram Singh
271/2, R.K. Puram
New Delhi

....Applicant

(By Advocate: Shri H.C. Sharma)

Versus

Union of India through

1. Director
Directorate of Statics & Intelligence
Central Excise & Customs
Ministry of Finance
DLF Centre Greater Kailash-II
New Delhi

2. Secretary
Ministry of Finance
North Block, New Delhi

...Respondents

(By Advocate: Shri K.C.D. Gangwani)

O R D E R

HON'BLE DR. A. VEDAVALLI, MEMBER(J)

The applicant Anant Ram Singh was engaged by the respondents as a daily rated casual labourer with effect from 20.5.1996 and worked in short spells as per particulars given by the respondents (Annexure R-1 (colly)) and was finally disengaged in November, 1999. Originally he was appointed by the respondents after being sponsored by the the Employment Exchange. His grievance is that the respondents have denied him the chance for regularisation against a Group 'D' post by giving preference to his juniors and freshers. He filed the present O.A. against the respondents seeking the following reliefs:-

- (a) to direct the respondents to consider the applicant for regularisation against Group D post in preference to his juniors and freshers;
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(b) grant temporary status as per rules;

2. When the matter was taken up for hearing, learned counsel for the applicant Shri H.C. Sharma submitted at the bar that he is not pressing the second relief for conferment of temporary status. In the circumstances the only main relief which arises for consideration is the one relating to regularisation of the applicant against a Group 'D' post.

3. Learned counsel for the applicant submitted that one Surender Prakash Yadav, who was sponsored by the Employment Exchange, was appointed on ad-hoc basis to a Group 'D' post ignoring his claim as he is senior to Surinder Prakash Yadav. He contended that the action of the respondents in this regard is against the provisions of Articles 14, 16 and 21 of the Constitution and against the rules. In this connection, he relied upon the following decision of the Supreme Court in Bhagwati Prasad Vs. Delhi State Mineral Development Corporation [(1990) 1 SCC 361] and the order of this Tribunal in Sanjeev Kumar Vs. UOI & Ors. (2000(1) ATJ 22).

4. Learned counsel for the respondents Shri K.C.D. Gangwani submitted that the applicant has never completed a period of 206 days of continuous service in a year and as such he is not eligible for conferment of temporary status and that he is not eligible to be considered for regularisation against a Group 'D' post in terms of the relevant O.M. of Department of Personnel & Training of the Govt. of India No.51016/2/90-Estt(C) dated 10.9.1993 (Annexure R-II). He

also submitted that since the applicant is not eligible for being conferred temporary status, there is no question of regularisation against a Group 'D' post as per the relevant provisions of the said O.M. He further submitted that there was a vacant Group 'D' post for which the department had requested the Employment Exchange for filling up the post on ad-hoc basis and the name of Shri Surinder Pratap Yadav was finalised for appointment as 'Hamal' on ad-hoc basis. The candidate's name was not forwarded by the Employment Exchange to the respondents and that among daily rated workers, the question of senior and junior does not arise.

5. The learned counsel for the respondents, however, submitted that non-sponsoring by the Employment Exchange would not stand in the way of consideration of the applicant in the event he applies from the open market at the time of filling up of the said Group 'D' post on a regular basis in future in view of the well settled legal position in this regard.

6. No rejoinder has been filed by the applicant. However, learned counsel for the applicant again reiterated his argument that the action of the respondents in ignoring the applicant's claim for regularisation against the Group 'D' post is untenable in the eye of law.

7. Relevant provisions of the concerned O.M. No.51016/2/90-Estt(C) dated 10.9.1993 (Annexure R-II) are as under:-

"4. Temporary Status

- i) 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

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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 offices observing 5 days week).

ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.

iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.

iv) Such casual labourers who acquire temporary status will not however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

5. Temporary status would entitle the casual labourers to the following benefits:-

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vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group D employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/ Flood Advance on the same conditions as are applicable to temporary Group D employees, provided they furnish two sureties from permanent Govt. servants of their Department.

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8. Procedure for filling up of Group D posts

i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Deptt. of Personnel & Training from amongst casual workers with temporary status."

8. Counsel for both the parties have been heard and the material and documents placed on record have been perused. On a consideration of the matter, I am of the opinion that in the facts and circumstances of this case as

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discussed above, the applicant has not been able to establish that any of his vested legal rights have been infringed by the action of the respondents in this case. The decisions on which reliance was placed by the learned counsel for the applicant also do not help him in any way since the applicant has not been able to indicate any violation ~~of the provisions~~ of the relevant provisions of the O.M. cited supra. In the facts and circumstances of this case and since no valid and tenable grounds have been put forward by the applicant as would justify the relief which he is seeking in the O.A., the same is dismissed as being devoid of any merit. However, in view of the statement made by the learned counsel for the respondents, as mentioned in para 5 supra, and in the interests of justice, the respondents are directed that at the time of filling up of the concerned Group 'D' post on a regular basis, the applicant, in the event he makes an application for the said post, should be considered, if eligible, on his merits alongwith other applicants even if he is not sponsored by the Employment Exchange in view of the well settled legal position as laid down by the Supreme Court.

The O.A. is disposed of in terms of para 8 above.

No costs.

A. Vedavalli
31-1-2000
(Dr. A. Vedavalli)
Member(J)

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