

Central Administrative Tribunal  
Principal Bench, New Delhi

O.A.No.1399/1999

(39)

Friday, this the 23rd day of November, 2001

Hon'ble Shri S.A.T. Rizvi, Member (Admn)

1. Vinay Kumar  
S/o Shri Mukh Lal Das  
Aged: 24 Yrs (DOB: 4/1/75)  
R/o E-120, Dilshad Garden  
Shahdara, Delhi-110095.
2. Dhananjay  
S/o Shri Rampal  
Aged: 19 Yrs (DOB: 12/5/80)  
R/o A-141, Kidwai Nagar,  
New Delhi-110003.
3. Shyam  
S/o Shri Raghubir  
Aged: 23 Yrs (DOB: 2/12/75)  
R/o H-77, Type-II,  
SJH Staff Quarters,  
West Kidwai Nagar  
New Delhi 110023.
4. Dhan Singh  
S/o Shri Gokul Singh  
Aged: 23 Yrs (DOB: 1/4/76)  
R/o 1262, R.K. Puram, Sector-I  
New Delhi.
5. Rajender Singh Chauhan  
S/o Shri Gokul Singh  
Aged: 23 Yrs (DOB: 12/2/76)  
R/o G-52, Nanakpura,  
New Delhi-110021.
6. Ashok Badoni  
S/o Shri Harsh Mani Badoni  
Aged: 23 Yrs (DOB: 1/1/76)  
R/o B-448, Sewa Nagar,  
New Delhi-110003.
7. Bhupinder Singh Rawat  
S/o Shri D.S. Rawat  
Aged: 22 Yrs (DOB: 3/8/76)  
R/o G-26, Nanakpura,  
Moti Bagh II,  
New Delhi-110021.
8. Bhawan Singh  
S/o Shri Umad Singh  
Aged 24 Yrs (DOB: 12/9/74)  
R/o D-377, Pkt III,  
Bindapur DDA Flats,  
New Delhi 110059: { }

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9. Vishamber Datt  
S/o Shri Hari Ram  
Aged : 29 Yrs (DOB: 5/10/69)  
R/o QR No.866  
Sector-I,  
R.K. Puram,  
New Delhi-110022.

10. Tara Datt  
S/o Shri Hari Bakllabh Joshi  
Aged: 26 Yrs (DOB: 25/5/73)  
R/o QR No.745 Sector II,  
Type II Sadiq Nagar,  
New Delhi-110049.

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.... Applicants

(By Advocate: Dr. D.C.Vohra)

V E R S U S

1. Union of India  
Through  
the Foreign Secretary  
Ministry of External Affairs,  
South Block,  
New Delhi-110011.

2. The Regional Passport Officer  
Ministry of External Affairs,  
HUDCO TRICOOT-3,  
Bhikaji Cama Place,  
New Delhi-110066.

.... Respondents

(By Advocate: Shri N.S.Mehta)

O R D E R (ORAL)

Heard the learned counsel on either side.

2. The applicants, 10 in number, have been engaged as casual labour under respondent No.2 from varying dates from October, 1997. Two of them were so engaged w.e.f. 15.10.1997, two others from 8.12.1997 and the remaining six w.e.f.23.4.1998. Having worked continuously for more than a year as casual labour, they are all eligible for being considered for conferment of temporary status in accordance with DOPT's Scheme of 10.9.1993. That status has not been conferred on them so far, despite a series of representations filed by the applicants. Hence, this DA.

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3. I have considered the submissions made by the learned counsel on either side, and find little force in the plea advanced by the learned counsel appearing for the respondents that the applicants' claim for conferment of temporary status cannot be considered for the reason that none of them has completed more than 206 days of service in a calender year.

4. The aforesaid matter was earlier considered by the D.B. of this Tribunal in OA-1103/99 which was decided on 23.3.2001. In para 8 of the order passed by the D.B., it has clearly been held that the period of one year/206 days will have to be counted from the date on which a person is first engaged as casual labour without any reference to a calender year or a financial year. The aforesaid finding has been arrived at after noting that the DOPT's Scheme in question itself has not defined the concept of a year.

5. The other contention raised on behalf of the respondents is that the DOPT's Scheme in question is not an on going scheme and accordingly the applicants, having been appointed as casual labour much after the designated date of 1.10.1993, cannot prefer a valid claim for conferment of temporary status. The same matter, according to the learned counsel appearing on behalf of the respondents, was considered by the S.B. of this Tribunal in OA-668/2000 which was decided on 8.12.2000. By relying on what the High Court had held in Shri Mohan Pal Vs. Union of India & Ors. in CWP-963/98 (decided by that Court on 22.9.1999), the S.B. of this Tribunal had held that the DOPT's Scheme of 10.9.1993 is required to be

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treated as an on going scheme. That same order of the S.B. was taken to the High Court of Delhi and the following orders have been passed in the matter on 8.6.2001:-

"It is submitted that the Supreme Court has stayed the judgement passed in CWP 963/98 in Mohan Lal Vs. UOI and the Central Administrative Tribunal has placed reliance on this judgment by passing the impugned order. In view of the facts that the judgment relied upon by the Tribunal in its order, has been stayed by the Supreme Court, we stay the impugned judgment dated 8th December, 2000...."

According to the learned counsel, in view of the stay aforesaid granted by the Supreme Court, no decision can be taken in the matter until further orders are passed by the Supreme Court.

6. I have carefully considered the implications arising out of the order of stay granted by the Supreme Court and referred to in the previous paragraph. The DOPT's Scheme in question clearly lays down that conferment of temporary status would entitle the casual labourers to certain benefits. One of the benefits to which they become entitled is shown in para 5 (vii) of the Scheme which reads as under:-

"(vii) Until they are regularized, they would be entitled to Productory Linked Bonus/Ad hoc Bonus only at the rates as applicable to casual labourers."

By necessary implication, those granted bonus will have to be treated as persons with temporary status. That seems to be the reason why the respondents have proceeded to

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sanction payment of bonus to 8 out of the 10 applicants by their sanction order dated 29.10.2001, a copy of which has been produced before me in the Court and is taken on record. It is thus clear that the applicants and, at any rate, 8 of them, have actually been treated as casual labours with temporary status, and in the circumstances what remains now is the issuance of a formal order granting temporary status.

7. The controversy regarding counting of days of service with reference to a calender year having been settled by the D.B. of this Tribunal as mentioned above, the respondents have simply to issue an order conferring temporary status on the applicants by way of completion of a necessary formality. No fresh decision is required to be taken at any rate in respect of the 8 applicants in respect of whom bonus has been sanctioned. The stay granted by the Supreme Court, if the same is still in force, will, in my view, not stand in the way of passing of a formal order conferring temporary status on the aforesaid 8 applicants.

8. In respect of the remaining 2 applicants, namely, applicant Nos. 1 and 7, the learned counsel appearing on their behalf submits that the present OA, insofar as they are concerned, should be treated as withdrawn. This is allowed with liberty. Meanwhile, the respondents are free to consider their claims as well in accordance with the relevant instructions and pass necessary orders.

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9.. The respondents will take necessary action to confer temporary status on the applicants in accordance with the observations made in this order within a period of three months from the date of receipt of a copy of this order. I direct accordingly.

10 The OA is allowed and disposed of in the aforesated terms.

11. There shall be no order as to costs.

*S. A. T. Rizvi*

(S.A.T. Rizvi)  
Member (A)

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