

Central Administrative Tribunal, Principal Bench

Original Application No. 1473 of 1999

New Delhi, this the 21st day of July, 2000

Hon'ble Mr. Kuldip Singh, Member (J)

Shri Chok Bahadur Thapa S/o Sh. Rewan Singh Thapa
Working as Casual Labourer in the Mass
Mailing Centre under Delhi Postal Circle, New Delhi
R/o New Delhi, address for service of notices
C/o Shri Sant Lal, Advocate
C-21(B) New Multan Nagar,
Delhi-56.

- Applicant

(By Advocate - Shri Sant Lal)

Versus

1. The Union of India through the Secretary,
Ministry of Communications,
Department of Posts,
Dak Bhawan,
New Delhi-110 001.

2. The Chief Postmaster General,
Delhi Circle,
Meghdoot Bhawan,
New Delhi-110 001.

- Respondents

(By Advocate - Shri Madhav Panikar)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J)

Applicant has filed this OA seeking relief to grant him temporary status from the date he completed the requisite service of 240 days (206 days in office with five days week) in one year in accordance with Casual Labourers (Grant of Temporary Status and Regularisation) Scheme (hereinafter referred to as 'Scheme') and the law laid down by this Tribunal. He has also prayed for being considered for regularisation after the grant of temporary status. He has further prayed that respondents may be directed to make the payment of wages to him for his casual service in RLO, New Delhi and Mass Mailing Centre at the rates prescribed by the D.G. Posts in his office letter dated 19.2.88 which was issued in compliance with the Hon'ble Supreme Court's

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decision in Daily Rated Casual Labourers case of Pat.

2. The applicant claims that he was initially engaged as Hamal with effect from 13.3.91 for five hours duty per day when he had worked continuously upto 10.9.93 and from 13.9.93, he was given eight hours duty as Hamal in RLO, SRT, New Delhi and was paid wages at the rate of Rs.49/- per day. He had rendered service of more than 206 days each year during the years 1991-92, 1992-93, 1993-94 and 1994-95 as casual labourer, out of which service from 13.9.93 onwards was of full time casual labourer with eight hours duty and had thus completed more than 206 days service in one year counting from 13.9.93 to 12.9.94. Applicant also claims that casual labour job is still available with the respondents and he is entitled to be considered for re-engagement and also for temporary status.

3. Respondents have contested the petition. Their main objection is that applicant was not employed through Employment Exchange. They have submitted that the nature of work which the applicant was doing is irregular and he has also not completed 240 days of service in one year. However, it is not denied that applicant was being engaged for lifting of bags from ground floor to second floor and fourth floor whenever there was power failure and lift was not working.

4. I have heard learned counsel for the parties and gone through the records.

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5. As regards the fact that applicant was engaged as Hamal (i.e. for the purpose of lifting of bags) is concerned, the same is not denied by the respondents and during the course of arguments, learned counsel for the applicant has placed on record a letter written by Manager, RLO, SRT, New Delhi, which mentions that the services of the applicant was terminated w.e.f. 14.2.95 and after his termination, certain other persons were engaged. The applicant claims that all those persons are junior to him and had been engaged after his termination. Relying upon this letter, he submitted that this shows that the nature of work which he was doing, is still available with respondents and he has a right to be re-engaged in preference to juniors and freshers. He claims that since he has worked for more than the requisite number of days in the past, he is also entitled for grant of temporary status. Considering this letter of the respondents, I find that the applicant has made out a case for being re-engaged in preference to juniors and freshers.

6. As regards the prayer for grant of temporary status, it is for the respondents to see whether the applicant had rendered service for the requisite period which entitles him for grant of temporary status. If they come to the conclusion that applicant has rendered service for the requisite period, then they shall consider the case of the applicant in accordance with the Scheme applicable to casual labourers engaged by Postal Authorities and confer temporary status on applicant as per instructions and rules on the subject.

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7. As regards the prayer for grant of arrears of difference of wages for the period he had rendered service - during the years 1992-93, the same appears to be time barred and this cause of action could not be connected with this case.

8. In view of the above discussion, this OA is partly allowed with the following directions:

(i) That the respondents shall re-engage the applicant as and when work is available, in preference to juniors and freshers; and

(ii) They shall also consider the case of the applicant for grant of temporary status in accordance with the casual labour Scheme applicable to the Postal Department and pass a speaking order within 3 months from the date of receipt of a copy of this order.

No order as to costs.


(Kuldip Singh)
Member (J)

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