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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 1732/99

New Delhi this the 21st day of February, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Sh. Vijender Singh
S/O Sh. Santokh Singh
R/O E-318, Dakshin Puri,
Sector-V, Ambedkar Nagar,
New Delhi-62

.. Applicant

(By Advocate Sh. D.R. Gupta)

versus

The Chief Controller of Accounts
Department of Supply,
16-Akbar Road Hutmants,
New Delhi.

.. Respondents

(By Advocate Sh. S.M. Arif)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant is aggrieved by the action of the respondents in dispensing with his services by a verbal order dated 28.9.98 (28.10.98 as claimed by the applicant) without any notice or payment of salary in lieu thereof, after he had become eligible for grant of temporary status in terms of the DOP&T OM/Scheme dated 10.9.1993.

2. I have heard both the learned counsel and perused the records.

3. The respondents have taken a plea that the applicant was engaged for a total number of 119 days in the calender year 1997, and 181 days in the calender year 1998, which does not amount to the minimum of the prescribed period of days in the relevant Scheme in a particular calender year. They have submitted that there was no work and hence the services of the applicant were terminated w.e.f. 28.9.98.

4. Shri D.R. Gupta, learned counsel for the applicant has vehemently disputed the above stand taken by the respondents stating that what is required is the number of days i.e. 206 days in a period of one year i.e. in 12 months and not in a

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period of 206 days in any particular calender year. He relies on the judgements of the Tribunal in Shivaji Mehta and Ors. Vs. UOI through Secretary, Department of Tourism, Transport Bhawan New Delhi (OA 852/98) decided on 30.10.98 and Raj Kumar and Ors. Vs. UOI through Secretary, Ministry of Welfare and Ors. (OA 1699/98) decided on 23.11.1998 (Copies placed on record).

5. Taking into account the facts and circumstances of the case and the aforesaid judgements of the Tribunal, the plea taken by the respondents, namely, that the applicant had not been engaged for 206 days as per the Scheme in any particular year is untenable. What has to be seen is the completion of the required period of days under the Scheme for a period of one year i.e. 12 months from the date of his appointment as casual labourer for the purposes of determining whether the terms and conditions are satisfied for grant of 'Temporary Status'. In the present case, the applicant was engaged as casual labourer from 16.7.97 to 28.9.98 i.e. for more than the prescribed number of days in twelve months. In this view of the matter, the application succeeds and is allowed to the extent that the respondents are directed to issue the necessary order granting the applicant 'Temporary Status' with effect from the date he has completed the required number of days service in accordance with the Scheme, subject to fulfilling all the terms and conditions prescribed therein with all consequential benefits. Necessary action shall be taken within two months from the date of receipt of a copy of this order.

6. I also find force in the submissions made by Sh.D.R.Gupta, learned counsel that as the impugned termination order dated 28.9.98 could not have been passed in terms of the aforesaid Scheme without treating the applicant as a person entitled to 'Temporary Status' on the due date, the applicant shall also be entitled to one month pay in lieu of the notice prescribed in the Scheme. This shall also be granted to the applicant within

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the aforesaid time mentioned in Paragraph 5 above. The claim for back wages when the applicant was out of job is rejected.

7. Noting that the respondents have stated that there is no work of a casual nature at the moment, the claim for reinstatement in service is rejected. However, in case the respondents require services of casual labourers and he applies, they shall also consider his case in preference to outsiders and juniors. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

Member (J)

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