

Central Administrative Tribunal
Principal Bench

O.A. 1870/99

New Delhi this the 11th day of April, 2000

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

1. Shri Kishan Chand,
S/o Shri Prithhvi Singh,
R/o Vill & PO: Mundka,
Plot No. 664, Delhi-110041.
2. Shri Sunil Kumar,
S/o Shri Chetan Sarup,
R/o BG-II, 298-D Vikaspuri,
New Delhi-110 018. ... Applicants.

(None present)

Versus

1. Union of India through
Ministry of Defence through
its Secretary, South Block,
New Delhi.
2. The Director General
Quality Assurances,
Department of Defence Production,
(ADM-7-B) H. Block,
New Delhi-110 011.
3. The Senior Quality Assurance Officer,
Senior Quality Assurance Establishment,
(Store) Lower Camp, Ministry of Defence,
Govt. of India, Anand Parbat,
New Delhi-110 005. ... Respondents.

(By Advocate Shri V.S.R. Krishna)

O R D E R (ORAL)

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

The applicants, two in number, have challenged the validity of the impugned order of termination w.e.f. 9.7.1999. When the case was called out in the morning, Applicant 1, Shri Kishan Chand was present and he had prayed that the case may be taken up at 2 P.M. when his counsel would be present to make ^{his} submissions. We have waited till 2.10 p.m. but none has appeared for the applicants. In the circumstances, I have perused the pleadings, documents on

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record and heard Shri V.S.R. Krishna, learned counsel for the respondents.

2. The applicants claim that they have been working as casual labourers with the respondents, applicant 1 from September, 1995 to 9.7.1999 and applicant 2 from 30.11.1995 to 9.7.1999. Applicant 1 has stated that after a day's break he was again reinstated from 25.10.1997 to 20.1.1998. Thereafter, he states that he had been again engaged from 28.4.1998 till 9.7.1999. They have submitted that the action of the respondents in terminating their services w.e.f. 9.7.1999 is illegal, arbitrary and discriminatory. They have also stated that as they have worked for more than 240 days continuously with the respondents in the last 5 years, they are deemed to be regular in that service. They have claimed that the termination of their services is, therefore, illegal and invalid and they have prayed for a direction to the respondents to regularise them in service with full back wages and continuity in service with all other consequential benefits.

3. The respondents in their reply have controverted the above facts. Shri V.S.R. Krishna, learned counsel for the respondents, has submitted that as the applicants were engaged as casual labourers for doing the work of casual nature whenever the need arose ^{and} they have no enforceable right for regularisation against any sanctioned post as none exists with the respondents. He has also submitted that merely because the applicants may have put in 240 days of service as casual labourers, they cannot be deemed to be in regular service, as this is contrary to the relevant rules and

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instructions. Apart from this, he has also submitted that the applicants had been engaged as and when the work was available with long intermittent breaks and not merely of one or two days between their re-engagement. In the circumstances, learned counsel has submitted that as there is no work at present with the respondents in which the applicants could be adjusted, the application is without any merit and he has prayed that the same may be dismissed.

4. No rejoinder affidavit has been filed by the applicants even though the reply of the respondents has been filed as far back as on 30.11.1999 to controvert the submissions made by them.

5. The claim of the applicants for deemed regularisation in service as casual labourers merely because they have completed 240 days service, cannot be accepted as this is not in accordance with the relevant Govt. of India DOP&T Schemes. The applicants have not placed on record any particular Rule in which their claim for regularisation of their services after 240 days has to be automatically granted and hence this claim is rejected. The Government of India, DOP&T O.M. dated 1.10.1993, provides, inter alia, that if persons who are doing work as casual labourers have put in the requisite number of days as mentioned therein, they are entitled for consideration for grant of temporary status. The question of regularisation of their services and other benefits as applicable to casual labourers are also governed by the relevant rules and instructions.

6. The respondents have also submitted that the applicants have been engaged as casual labourers as and when

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the need arose and they were also not engaged against any sanctioned posts. In the circumstances of the case, the disengagement of the applicants w.e.f. 9.7.1979 on the ground that their services were no longer required cannot be termed as illegal, arbitrary or discriminatory justifying any interference in the matter or setting aside the termination order.

7. However, in the circumstances of the case, the only order that can be given is that in case the respondents require the services of casual labourers to do work of the nature the applicants were doing earlier, and in case the applicants submit their applications for consideration, they shall consider their cases in accordance with the relevant rules and instructions and give due weightage to the previous service rendered by them.

8. O.A. disposed of, as above. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)