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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI  
OA 2233/99

New Delhi this the 5th day of July, 2000

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

Shri Ajay Kumar  
S/O Sh. Triloki Nath  
R/O H.No.125, Village Deoli  
New Delhi-110062

.. Applicant

(By Advocate Shri V.K.Rao )

Versus

1. Director General  
All India Radio,  
Akashvani Bhawan,  
New Delhi.
2. The Chief Engineer-I,  
Civil Construction Wing,  
All India Radio, 2nd Floor, PTI  
Building, Parliament Street,  
New Delhi.
3. The Executive Engineer (Civil),  
Civil Division No.I,  
Civil Construction Wing,  
All India Radio, C/3, 1st Floor,  
Room No.116, Pushpa Bhawan,  
MB Road, New Delhi-62

.. Respondents

(By Advocate Shri D.S. Mahendru )

O R D E R (ORAL)

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

The applicant is aggrieved by the order passed by the respondents dated 21.9.1999 informing him that his services as casual labourer were not required after giving him one month notice.

2. I have perused the pleadings and heard learned counsel for the parties. One of the main issues raised in this case is with regard to the number of days the applicant had worked as casual labourer with the respondents. According to the facts given by the applicant in the OA as well as in the rejoinder, he has put in 245 days of service upto 1994 and he has given <sup>a/s</sup> table in Paragraph 3 of the rejoinder. He has stated that the respondents have also admitted that the applicant had worked for 230 days in 1994.

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Shri V.K.Rao, learned counsel has submitted that in 1994, the applicant was working as casual labourer in the office of Engineer-in-Chief, AIR where 5 days week is observed. In terms of the DOP&T OM dated 10.9.93, in an office where 5 days week is observed, the total number of days to be put in by a casual labourer is only 206 days and not 240 days. In the additional reply to the rejoinder filed by the respondents dated 2.6.2000 they have confirmed that the applicant had worked as casual labourer only for 230 days in 1994. Learned counsel has also contended that the reply on behalf of respondents has been filed by the Executive Engineer(C), AIR i.e. Respondent 3 whereas during the relevant period in 1994, the applicant has been working with Engineer-in-Chief, AIR under Respondent No.1.

3. Both the learned counsel have submitted that the applicant is stated to have been placed at Serial No.1 in the seniority list. The respondents have submitted that whenever the services of casual labourers are required the applicant will be considered as the first person to be engaged for any fresh work. The respondents have stated that no junior to the applicant has been appointed, which Shri V.K.Rao, learned counsel has denied stating that as late as 8.2.2000, the respondents have advertised for the post of Helper. The contention of Shri Rao, learned counsel is that because of the advertisement, the respondents cannot take a contrary stand to their averments in the additional reply to the rejoinder which cannot be accepted. It was open to the applicant to have applied against the vacancies, if he

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was, otherwise, eligible in accordance with the rules and instructions.

4. In Paragraph 8(b) of the OA, the applicant has prayed for a direction to the respondents to declare him eligible for grant of Temporary Status on completion of 206/240 days of service from the date of his initial appointment in 1992.

The applicant has stated that at the relevant time in 1994 he was working in an office where 5 days week is observed and has, in fact, completed 206 days of service which facts have not been denied as the respondents who have stated that he has completed 230 days of service upto 1994.

Respondents ought to have considered his case for grant of Temporary Status in accordance with the terms and conditions laid down in the DOP&T Scheme dated 10.9.93. However, the averments made by the applicant in the OA have referred both to 206 days as well as 240 days as being the qualifying service. In any case, if he fulfils the terms and conditions of the DOP&T Scheme, he will be entitled for the benefits as provided in the Scheme.

5. Shri V.K.Rao, learned counsel has prayed that in the facts and circumstances of the case, a direction may be given to the respondents to regularise the applicant in the next available vacancy. He has submitted that one Shiv to Shankar Yadav, junior/ the applicant has been continued in service and regularised. It is, however, noticed from the reply filed by the respondents that no junior to the applicant has been regularised. In the circumstances, the respondents shall also look into the matter and act in accordance with law.

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6. In the result for the reasons given above, the O.A. is disposed of with the following directions:-

The respondents to consider the case of the applicant for grant of **Temporary Status** in the year 1994 in terms of the **DOP&T Scheme** dated 10.9.93 and other benefits in accordance with it. This shall be done within two months from the date of receipt of a copy of this order with intimation to the applicant. If the respondents have work of the nature the applicant had been doing previously, he shall be engaged in service in accordance with the relevant rules/Scheme.

No order as to costs.

*Lakshmi Swaminathan*

(Smt. Lakshmi Swaminathan)  
Member (J)