

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

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O.A.NO.2723/99

New Delhi, this the 07<sup>th</sup> day of September, 2000

HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

Karam Singh S/O Sh. Hans Ram, R/O  
H.No.779, Pana Paposiya, Narela, Delhi -  
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.....Applicant  
(By Advocate: Sh. M.K.Bhardwaj through Sh. A.K.  
Bhardwaj)

Versus

1. Union of India, through the Secretary, Deptt. of Company Affairs, Ministry of Finance, Room No.502, Shastri Bhawan, New Delhi.
2. The Director, Deptt. of Company Affairs, Ministry of Finance, Room No.516, Shastri Bhawan, New Delhi.
3. Section Officer, General Branch, Deptt. of Company Affairs, Ministry of Finance, Room No.511, Shastri Bhawan, New Delhi.

.....Respondents.  
(By Advocate: Mrs.P.K.Gupta, through Sh. Anil Singal)

O R D E R

Hon'ble Mr. S.A.T.Rizvi, Member (A):

The applicant is aggrieved by the termination of his services as casual labourer w.e.f. 15.10.99 and the employment allegedly of freshers and outsiders in his place. In his support, he has referred to the view taken by this Tribunal and the Hon'ble Supreme Court in Anjali Bepari Vs. Central Welfare Board & Ors. SCSLJ 1996 (2) 316.

2. I have heard the learned proxy counsel for both the parties and have perused the material on record.

3. The applicant was engaged as a Group 'D' employee on casual basis w.e.f. 24.4.98. and his services were

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first terminated by the respondents on 24.7.98 and preference was then accorded to certain juniors of his. Hurt by this termination, the applicant had come up before this Tribunal in OA-1445/98 which was disposed of vide order dated 7.8.98. The Tribunal had directed the respondents to consider the applicant's claim in preference over juniors and outsiders. Accordingly, the applicant was again engaged by the respondents w.e.f. 3.5.99 and continued in position upto 15.10.99. His claim is that in the process he has worked for more than 240 days and is, therefore, entitled to the conferment of temporary status in accordance with the DOPT's OM dated 10.9.93. The respondents have, however, done their own calculation in the matter and have established that the total period for which the applicant remained employed worked out to 68 plus 112, i.e., 180 days and nothing more. The applicant wants direction to be issued to the respondents to re-engage him as casual labourer in preference over the juniors and outsiders.

4. The respondents have contended that since he has not completed a period of 206 days of working in a year (in case of Office observing 5 days' weak), he is not entitled to the grant of temporary status in terms of the DOPT's OM in question. In regard to the employment of Yashpal and Balkrishan, the respondents have stated that these two persons were, for the first time, engaged in 1997 whereas the applicant was engaged for the first time in 1998 and, therefore, the respondents have allowed a kind of seniority to these two persons in preference over the applicant. On this basis, the respondents have

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justified the appointment of the said Yashpal and Balkrishan in preference over the applicant. The respondents have denied the engagement of freshers and outsiders in the manner alleged by the applicant, clarifying that Balkrishan and Yashpal could not be treated as such in view of the fact that they had earlier worked with the respondents in 1997. The respondents felt obliged to employ as daily wager, the above-mentioned two persons, only on the ground of seniority determined not on the basis of length of service but on the basis of the year of employment. The directions of this Tribunal dated 7.8.98 were honoured by the respondents and the applicant was engaged as casual labourer again from 3.5.99 upto 15.10.99. According to them, the said directions of this Tribunal could not be interpreted to mean that the applicant should continue to be employed as casual labourer for all time to come and when vacancy arose and that the respondents retained the option also to consider others who had worked with them in earlier years.

5. In the background of the above detailed discussion, it is clear that the applicant is not entitled to the conferment of temporary status in terms of DOPT's OM dated 10.9.93. It is also clear that this Tribunal's order dated 7.8.98 was duly honoured by the respondents, who gave him employment once again from May, 99 to October, 99. The question that remains to be answered is whether the respondents have done the right thing by determining seniority with reference to the year of employment rather than on the basis of length of

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service. This is a matter which, insofar as the engagement of the daily wagers is concerned, has to be left to the discretion of the respondent Ministry. The respondents are, however, expected to evolve a stable policy in this regard so as to avoid complications and the charge of lack of transparency in future.

6. In the result, the OA fails and is disposed of with the following direction to the respondents:-

The respondents should, in the matter of employment of daily wagers, evolve a stable/firm policy for determining seniority and if not found unfeasible and impractical in the peculiar circumstances of their working, adopt the policy followed in the Railways in regard to casual labourer, whereunder the length of service is accorded primacy in the matter of determination of seniority. Having evolved a policy as above, the respondents should review the matter and if possible, re-engage the applicant, subject to such reasonable and fair conditions as they would like to attach to re-engagement of casual labourer. They are further directed to evolve a policy as -above and to consider the applicant's case for possible re-engagement in the light of the policy to be evolved within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

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(S.A.T.RIZVI)  
MEMBER (A)

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