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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-600/99

New Delhi this the 1st day of June, 1999.

Hon'ble Shri S.P. Biswas, Member(A)

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1. Shri Vinod Kumar,
S/o late Sh. Premdas,
R/o House No. 1614,
Gali Boriyanwali,
Sitaram Bazar,
New Delhi-6.
 2. Sh. Vinod Kumar,
S/o Sh. Mamchand,
R/o M-109, Prithviraj Lane,
Khan Market, New Delhi. Applicants

(through Sh. S.K. Sinha, advocate)

versus

1. Union of India through
its Secretary,
Ministry of Finance,
North Block,
New Delhi.
2. The Controller General of Accounts,
Ministry of Finance,
Department of Expenditure,
7th Floor, Lok Nayak Bhavan,
Khan Market, New Delhi-3.
3. The Joint Controller General of
Accounts, Ministry of Finance,
Department of Expenditure,
7th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi. Respondents

(through Sh. P.H. Ramchandani, Sr. advocate with
Sh. Madhav Panikar, advocate)

ORDER

The applicants, casual labourers under the respondents, are aggrieved by the alleged arbitrary and illegal action on the part of the respondents whereby the latter have sought to disengage the applicants from the services and have at the same time sent requisition to the Employment Exchange for engaging fresh hands.

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2. It is the case of the applicants that both of them were appointed as casual labourers in the office under Respondent No.2 with effect from 31.8.98 initially for a period of 90 days after their names were sponsored by the Employment Exchange. After the expiry of the said period, the applicants continued working by means of getting reengaged on monthly basis. It was only in the month of March 1999 that the applicants were given jobs upto 19.3.99 obviously to avoid offering the benefits of temporary status.

3. It is also the case of the applicants that the law laid down by the Apex Court stands violated by the respondents in this case since ad hoc/casual labourers are being sought to be replaced by the similarly placed persons. The learned counsel for the applicants argued strenuously to say that the claims of the applicants are covered by the decision of the Hon'ble Supreme Court in the case of Central Welfare Board & Ors. Vs. Ms. Anjali Bepari & Ors. (SCJ 1996(2) SC 316) as well as the orders of this Tribunal in OA-1445/98 decided on 08.12.98. The applicants would also urge that they have continued as casual labourers for more than 260 days and, therefore, fulfilled the conditions laid down for the purpose of granting temporary status. Having fulfilled the conditions stipulated in the O.M. dated 10.9.93 issued by the Department of Personnel & Training, their legal claim of temporary status cannot be denied, the learned counsel for the applicants argued.

4. The respondents have submitted that the two applicants were engaged initially for a period of 3 months which was subsequently extended from time to time for specified periods. No extension has been granted to the applicants and hence their services have automatically come to an end by the efflux of time. (12)

5. The respondents have also submitted the details of the services rendered by the applicants after 31.8.98. From the statement given it is seen that upto 19.3.99, the applicants were engaged for 136 & 126 days respectively. No extension was granted beyond 19.3.1999. The applicants, however, continued to work beyond 19.3.99 because of the interim order passed by this Tribunal on 18.3.99. It is, therefore, obvious that the conditionalities stipulated in O.M. dated 10.9.93 for the purpose of granting temporary status do not stand satisfied.

6. During the oral arguments, Shri S.K. Sinha, learned counsel for the applicants submitted that both of them have completed 260 days of working. This, however, does not appear to be borne out of the facts since within the last 9 months i.e. 270 days the applicants could not have worked for 260 days. This is for the simple reason that none of them were called to work on Saturdays and Sundays. In any case the applicants have not been able to provide any evidence of having served with the respondents for more than 206 or 240 days in a year which could have entitled them for temporary status under the DOP&T instructions.

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7. Heard the learned counsel for both the parties and perused the record.

8. The learned counsel for the respondents filed the statement containing the details of various spells for which the applicants were engaged on daily wage basis. Those spells are as hereunder:-


- (1) 31.8.1998 to 31.10.1998
- (2) 02.11.1998 to 31.12.1998
- (3) 01.01.1999 to 31.01.1999
- (4) 01.02.1999 to 26.02.1999
- (5) 27.02.1999 to 19.03.1999

9. I also find that the applicants are continuing because of the interim orders of this Tribunal dated 18.3.99. The respondents have also come out with the written communication dt. 24.5.99 mentioning that they are not in need of services of the applicants or of any casual labourer. Under these circumstances, the applicants claim for offer of temporary status cannot be allowed in the background of the provisions on the subject. The application, therefore, deserves to be dismissed on merits and I do so accordingly.

10. Before I part with the case it is seen that the respondents had requisitioned the Employment Exchange for the services of some casual labourers. The details were also received by them on 17.3.99. The statement of the respondents that they are not in need of

the services of any casual labourer dates back to 24.5.99. It is also seen that the respondents have taken up the plea of working of the applicants not being satisfactory and this plea has been taken only after the interim orders were passed by this Tribunal. In the background of such a situation, it would be only fair and just to direct the respondents to ensure that the applicants will have preference over the candidates sponsored by the Employment Exchange or freshers/outsideers. The respondents have also made the same commitment in their communication dated 24.5.99. The responsible respondent like the Department of Expenditure are expected to adhere to the standards by which they process. The applicants will have also the liberty to agitate the issue again if they have a cause of action for the same.

11. The application is disposed of as aforesaid. No costs.


(S.P. Biswas)
Member(A)

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