

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1266/98

New Delhi this the 8th Day of October, 1998

Hon'ble Mr. R.K. Ahooja, Member (A)

Shri Sita Ram
Son of Shri Shanker Dayal,
Village Sikarpur, P.O:
Daulatpur, New Delhi-110 043
working as Casual under
Respondents

Applicant

(By Advocate: Shri T.C. Aggarwal)

-Versus-

1. Secretary to G/I
Ministry of Home Affairs
North Block, Secretariat,
New Delhi-110 001.
2. Secretary,
Zonal Council Sectt.,
Gallery No. 9, Block No. 11,
Jamnagar House Hutments,
New Delhi-110 011.

Respondents

(By Advocate: Shri G. Giri)

ORDER

The applicant was initially engaged as a Waterman in 1993 in the Zonal Council Secretariat, a subordinate office of the Ministry of Home Affairs. He worked for 114 days in 1992, 177 days in 1993, 186 days in 1994 and 106 days in 1995. At that stage he was appointed as a Peon on ad hoc basis in a short term vacancy as a regular Peon was promoted on ad hoc basis to the post of Daftry. This arrangement continued with technical breaks till 12.6.1998 when by the impugned order, Annexure A-2, his services were terminated. He was, thereafter, re-engaged as a casual labour for a period of three months.

2. The case of the applicant is that having worked for such a long period, he should be deemed to have acquired temporary status on completion of 206 days

engagement. It is also his case that the regular incumbent of the post of Peon has not rejoined but instead has proceeded on long leave and, therefore, he should be deemed to be continued as Peon on ad hoc basis till the actual resumption of duties by regular incumbent. Even otherwise, the applicant claims that he is entitled to continue as a casual worker with temporary status till such time that there are persons junior to him working as casual labour in any office under Respondent No. 1 viz., Ministry of Home Affairs. 6

3. A reply has been filed on behalf of the Respondent No. 2. The reply states that the applicant is not entitled to grant of temporary status as he did not fulfil the basic requirement of 206 days of service in a period of one year. They also state that the Zonal Secretariat is a separate office from the Ministry of Home Affairs and in so far as the former is concerned, there are no other casual workers junior to the applicant. The respondents also submit that the claim of the applicant regarding grant of temporary status is in any case time barred.

4. The learned counsel for the applicant has argued that the applicant's engagement as casual labour in 1993-94 has to be counted as continuous; the intervening period has to be ignored since the applicant was kept out of engagement only in order to deprive him of the benefits of temporary status. I find no substance in this argument. It is clear that the applicant's engagement as a Waterman was for the summer months and he was dis-engaged after the summer season was over each year. The learned counsel for the applicant further

Or

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argued that the applicant in any case has rendered continuous service between 1995-98. However, here also the case of the applicant does not fall within the purview of the Scheme pertaining to the grant of Temporary Status and Regularisation of Casual Labourer. The applicant during this period was working against a regular post even if that was on an ad hoc capacity. I do not agree with the learned counsel that the "ad hoc" service is to be treated on the same footing as 'casual' service. A casual labourer is a daily wager who is paid out of contingency funds. There cannot exist any post in the contingent establishment. On the other hand, an ad hoc appointment is against a post and the holder of the post on ad hoc basis is entitled to the pay scale and other allowances attached to the post. The Scheme issued by the DOP&T relied upon by the applicant, copy of which is at Annexure A-3, ~~which~~ is applicable only to casual labourers. In other words, it is applicable to daily wagers paid out of the contingency funds and not to holders of regular posts. Therefore, for the purpose of this Scheme only the period put in by the applicant as a casual labourer has to count. As already seen, this does not fulfil the condition of engagement for 206 days in a year. Hence, the applicant is not entitled to the grant of temporary status. 7

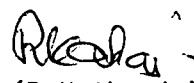
5. The applicant also seeks a direction to continue him as a casual labourer in preference to his juniors in any office ~~in the various Divisions~~ under the Home Ministry. The learned counsel for the applicant has sought to rely in this context on the judgement of this Tribunal in O.A. No. 249/97 Harikesh Meena Vs. Union of India and ors., as well as Surendra Pd. & Ors., Vs.

or

Union of India & Ors., (1996) 33 ATC 815. I do not find that these judgements are of any help to the applicant's case. In Harikesh Vs. U.O. I. (Supra), it was mentioned that different departments may employ "different people but the central controlling authority who keeps a register of all those employees shall consider their seniority and benefits under the Scheme in accordance with his seniority." In the present case there is no allegation that a common secretariat register is maintained by the Ministry for all the casual labour engaged in the various departments under the Ministry. On the contrary, the affidavit of Respondent No. 2 says that the Zonal Secretariat has an entirely different staffing system. In Surendra Pd. & Ors. Vs. UOI & Ors (Supra), the dispute related to the engagement and regularisation of casual labourers working on a Military Farm which was closed. Considering that the Central Command was already considering their cases for regularisation and had asked for various particulars a direction was given to consider them for regularisation. This case, therefore, is distinct from the present case where the applicant is still re-engaged as a casual labourer and the Zonal Secretariat is not being wound up.

6. In the result, the OA is dismissed. This is, however, without prejudice to the applicant's right to continue as a casual workers in his present office, subject to availability of work, in preference to juniors and outsiders.

Mittal


(R.K. Ahooja)
Member(A)