

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. 1322 of 1998

New Delhi this the 16th day of March, 1999

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

1. Shri Krishan Pal
S/o Shri Jugal Kishore
R/o 36/12, Pushpa Vihar,
Sector-I, M.B. Road,
Saket,
New Delhi-110 017.

2. Shri Nav Ratan Singh
S/o Shri Dharam Singh
R/o 1147, Sector VII,
Pushpa Vihar,
Saket,
New Delhi-110 017.

....Applicants

By Advocate Shri T.C. Aggarwal.

Versus

Union of India through
the Secretary,
Ministry of Food Processing Industry,
August Kranti Marg,
New Delhi.

..Respondents.

By Advocate Shri D.S. Jagotra.

ORDER

Applicants seek grant of temporary status with effect from 1.9.1993 in view of the fact that they were initially engaged in 1988/89 and their engagement was illegally terminated by verbal orders. It is also alleged in the application that some of their juniors were retained in service. The applicants contend that they had fulfilled the conditions for grant of temporary status in accordance with the Scheme applicable to the respondents-department for grant of temporary status and regularisation of the service. It is stated that as per the Scheme, the applicants had rendered more than 206 days of service and are eligible for grant of temporary status.

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2. The respondents in their counter-reply have denied that the applicants were in Government service as on 1.9.1993 when the Scheme came into effect. They, however, admit that the applicants were engaged for sometime on 28.10.88 in respect of applicant No.1 and on 25.9.89 in respect of applicant No.2. They, however, point out that the applicants were disengaged on 13.9.89 and 17.5.1991 respectively and on the basis of the direction of the Tribunal on the applications filed by them (OA No. 2341 of 1989 in respect of applicant No.1 and OA No. 2122 of 1990 in respect of applicant No.2), they were re-engaged on 27.5.1994 in respect of applicant No.1 and on 28.12.94 in respect of applicant No.2. It is also stated by the respondents that they have been engaged and are working continuously till date.

3. There is no dispute about the fact of re-engagement of the applicants from the aforesaid dates in December, 1994. The respondents, however, assert that the applicants would have no case for grant of temporary status w.e.f. 1.9.1993 as claimed by them in the application as they were not in service on the relevant date when the Scheme came into being.

4. I have heard the learned counsel for the parties and have perused the record.

5. As per the Scheme for grant of temporary status annexed as Annexure R-1 to the counter-reply, it is stated that the aforesaid Scheme for the grant of temporary status

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had come into force w.e.f. 1.9.1993. It, therefore, implies that casual labourers engaged on or after 1.9.1993 would be governed by this Scheme. Admittedly, the applicants were re-engaged w.e.f. 26.12.94 and 28.12.94 respectively and were also stated to be continuing in service as casual labourers till date. In the light of this, they are clearly governed by the aforesaid Scheme. However, applicants were disengaged from service as casual labourers in September, 1989 and 17.5.1991 respectively. It is only on the basis of the direction of the Tribunal they they were re-engaged on 26.12.94 and 28.12.94 respectively. In the light of this, they will not be eligible for grant of temporary status w.e.f. 1.9.1993, as claimed in this application. They would, however, be entitled to grant, of temporary status from 26.12.94 in respect of applicant No.1 and 28.12.94 in respect of applicant No.2. as they are stated to be still continuing in service as casual labourers. The applicants have referred to some of the juniors who are continued even though the applicants were disengaged. From the details of the juniors given in the respondents reply, I do not find any irregularity. During the hearing of the case and after hearing the counsel for the parties the following order was recorded:-

"After hearing the matter for sometime, learned counsel for applicants very clearly submits after consulting with applicants that although the prayer in the application if for grant of temporary status with effect from 1.9.1993, applicants will be satisfied if the respondents consider them granting temporary status at least from the date of their re-engagement, i.e. 26.12.94. (applicant No.1) and 28.12.1994

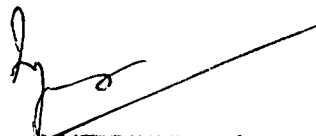


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(applicant No.2) and taking into account the previous service they have done. Therefore, the learned counsel prays that the case may be adjudicated on that basis."

6. In the light of the above, this application is allowed to the extent that the applicants are eligible to be governed by the Scheme for grant of temporary status as provided in the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993 and accordingly the respondents are directed to grant temporary status w.e.f. 26.12.1994 in respect of applicant No.1 and w.e.f. 28.12.1994 in respect of applicant No.2 subject to their otherwise being eligible under the aforesaid Scheme.

There shall be no order as to costs.


(K. MUTHUKUMAR)
MEMBER (A)

Rakesh