

-4-

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1445/98

New Delhi this the 8th day of December, 1998.

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

Shri Karam Singh,
S/o Shri Hans Ram,
R/o House No. 779, Pana Paposiya,
Narela, Delhi-40. Applicant

(through Shri A.K. Bhardwaj, advocate)

versus

1. Union of India through
the Secretary,
Deptt. of Company Affairs,
Ministry of Finance,
Room No.502,
Shashtri Bhawan,
New Delhi.
2. The Director,
Deptt. of Company Affairs,
Ministry of Finance,
Room No.518, Shashtri Bhawan,
New Delhi.
3. Section Officer,
General Branch,
Deptt. of Company Affairs,
Ministry of Finance,
Room No. 511 B,
Shashtri Bhawan, New Delhi. Respondents

(through Shri Gajender Giri, advocate)

ORDER(ORAL)

The issue that falls for determination is whether the respondents would have the unchartered liberty of engaging or disengaging certain persons as casual labourers on the basis of the instructions as at Annexure R-1 dated 29.4.93. As per the details of the aforesaid D.O. of Secretary, Department of

Personnel & Training, the casual labourers are to be engaged keeping in view of the following:-

"Please refer to my D.O. letter of even number dated the 1st January 1993 regarding the need to observe strictly the guideline issued by the Govt. about the engagement of casual workers on daily wages basis. In spite of the reiteration of the guidelines from time to time it has been noticed that the services of the persons initially engaged on daily rated basis for work of casual or intermittent nature are continued on one pretext or the other for long duration which subsequently gives rise to claims/pressures for regularisation of their services. If the guidelines issued by the Govt. are strictly observed there is no reason why situation of this type should arise at all. To avoid such complications and to ensure economy in administrative expenditure it has been decided that under no circumstances, casual labour should be allowed to be engaged during summer season for a period of more than 3 months. A serious view should be taken of any violation of these instructions and appropriate action against the officers responsible for any violation should be taken."

2. Following the above, the respondents have disengaged the applicant on 24.7.98 after he had completed 3 months of work. While disengaging him, the respondents on the same day decided to send a requisition to the Employment Exchange and this requisition was for 6 fresh hands as casual labourers. The Employment Exchange thereafter sponsored fairly a large number of new faces for consideration of engagement as casual labourers vide Annexure A-1.

3. It is, therefore, obvious that the respondents have resorted to the practice of

disengaging casual labourers appointed earlier after the expiry of 89 days and appointing fresh hands. Such a practice is prohibited in terms of D.O.P.&T O.M. No. 51016/2/90-Estt.(C) dated 10.09.93. The aforesaid circular stipulates the manner in which casual labourers have to be engaged, temporary status offered and those to be regularised on fulfillment of necessary conditions. It is well settled in law that the casual labourers have to be engaged/disengaged on the principles of "first to come last to go" (Please see Inder Pal Yadav & Ors. Vs. U.O.I. & Ors., 1985(2) SCC 648). We find that a similar view was taken by the Hon'ble Supreme Court in the case of Central Welfare Board & Ors. Vs. Ms. Anjali Bepari & Ors., SLJ 1996(2) SC 316. The relevant portion of the judgement that would be applicable to the facts and circumstances of the case is reproduced below:-

"In view of the above stand, we direct the petitioners to continue the respondent in any other temporary scheme but keeping in mind the overall seniority of all the persons; the dispensing with the services should be on last-come-first-go basis, i.e., the junior most incumbent has to go out first. As and when vacancies would arise, such persons whose services have been dispensed with will be taken back without following the practice of requisitioning the names of candidates from the employment exchange. They would be regularised only when regular posts are available and in accordance with the order of seniority."

4. In the present case, the steps taken by the respondents are against their own instructions on the subject. In view of the above, the O.A. is allowed with the following direction:-

The respondents shall reengage the applicant strictly in terms of the seniority and instructions available in O.M. dated 10.09.93. The applicant will have a claim as a casual labourer over the freshers and new comers.

No costs.

(S.P. Biswas)
Member(A)