

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 1979/1998
MA 818/2000

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New Delhi this the 17th day of November, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. Ashok Kumar S/O Duli Chand
Peon, Dte. of Adult Education
Jamnagar House, New Delhi.
2. Virender Kumar S/O Kishan Ram
Peon,
Dte. of Adult Education,
Jamnagar House, New Delhi.
3. Munish Kumar S/O Ved Ram
Peon
Dte. of Adult Education,
Jamnagar House, New Delhi.
4. Kuldeep Singh S/O Subey Singh
Peon,
Dte. of Adult Education,
Jamnagar House, New Delhi.

.. Applicants

(By Advocate Shri H.K. Gangwani)

Versus

Union of India and others through

1. The Secretary,
M/O Human Resources Development
Dept. of Adult Education,
Shastri Bhawan, New Delhi.
2. The Director,
Dte. of Adult Education,
Jamnagar House, New Delhi.
3. The Deputy Director (Admn.),
Dte. of Adult Education,
Jamnagar House, New Delhi.

.. Respondents

(By Advocate Shri D.S. Jagotra)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The applicants, four in number, have filed this application being aggrieved by the non-action of the respondents in considering their cases for grant of 'Temporary Status' in terms of the DOP&T Scheme dated 10.9.1993.

2. The brief relevant facts of the case are that the applicants state that they have been working as Peons on daily

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wage basis from 1992 and 1994, details of which have been given in Paragraph 4.1 of the OA. Shri H.K.Gangwani, learned counsel has submitted that the applicants have been working on daily wage basis as casual labourers with the respondents, at least two of them have completed more than 8 years and the other two 6 years continuously. In spite of that, he has submitted that the respondents have failed to consider their cases for grant of 'Temporary Status' and regularisation in terms of the aforesaid Scheme. This is the main claim raised in the present O.A.

3. I have perused the reply filed by the respondents and heard Shri D.S.Jagotra, learned counsel. The respondents have stated that the applicants have been engaged essentially as casual labourers from time to time and they do not hold any regular post nor they have been appointed against any such post as claimed by them. This is, however, disputed by the learned counsel for the applicants who relies on the annexure to the rejoinder in which applicant 1 has been referred ^{to} as Peon. Further, it is noted that the respondents have not denied the fact that the applicants have been engaged by them as casual labourers on daily wage basis to do the work of this nature, whenever they require such services.

4. In the reply, the respondents have stated that they do not have any regular vacancies against which the applicants can be adjusted. Apart from that, the applicants do not fulfil the conditions laid down in the DOP&T Scheme dated 10.9.1993. However, neither the respondents in their reply nor the learned counsel was able to explain as to what are the particular conditions which

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the applicants do not fulfil. Shri D.S. Jagotra, learned counsel mentions that the applicants are not duly sponsored by the Employment Exchange. In the light of the judgement of the Hon'ble Supreme Court in Excise Superintendent Malkapatnam Krishna District, Andhra Pradesh Vs. K.B.N. Vishwara Rao & Ors. (J.T 1996(9) SC 638) this ground cannot be held against the applicants, especially when the respondents have themselves employed these applicants as casual labourers, some of them right from December, 1992 and the others from May, 1994.

5. The respondents have filed MA 818/2000 praying for vacation of the ad interim order of the Tribunal dated 12.10.1998. By this order the respondents were directed to maintain status quo as on that date, in respect of the services of the applicants. The respondents have stated in the MA that they no longer require the services of the applicants as there is no work. These averments have been disputed by the learned counsel for the applicants, who has submitted that persons junior to the applicants have been retained in service as casual labourers, while the respondents are only wanting to dispense with the services of the applicants. The respondents, however, maintain that this is not the position because they have no work and in order to effect utmost economy in the Government they are finding it extremely difficult to continue the applicants in service, which is also not in public interest.

6. One of the contentions raised by the respondents is that the DOP&T Scheme dated 10.9.1993 which came into force on 1.9.1993 for grant of 'Temporary Status' to casual labourers

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is a one time measure. They have stated that the applicants could not be granted 'Temporary Status' at that time because they did not fulfil the basic criteria laid down in the DOP&T Scheme. Shri H.K.Gangwani, learned counsel has relied on the orders of the Delhi High Court dated 22.9.1999 wherein while dealing with the same Scheme dated 10.9.1993, it was held that the Scheme was an on going Scheme and not a one time concession. The issue, whether the Scheme is a one time measure or not is stated to be pending on appeal filed by the UOI, before the Hon'ble Supreme Court. Learned counsel for applicant has, however, submitted that in the present case, the order dated 22.9.1999 passed by the Delhi High Court would be applicable. He has also submitted that this view has been taken by the Tribunal in a number of other cases, for example in Santosh Singh and Ors Vs. UOI & Ors (OA 882/1999) decided on 12.10.2000 (Copy placed on record). The respondents have also not brought on record any orders of the Apex Court staying the order of the High Court dated 22.9.1999 with regard to the applicability of the DOP&T Scheme dated 10.9.1993.

7. In the facts and circumstances of the case the following orders are passed:-

(i) The respondents to consider the cases of the applicants for granting them 'Temporary Status' and regularisation in terms of the Scheme dated 10.9.1993, as if it is an on going Scheme

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as held by the High Court;

(ii) The above action shall be taken within two months from the date of receipt of a copy of this order.

(iii) As the applicants have already completed several years as casual labourers, in case they apply they shall be given preference over juniors and outsiders, in case the respondents require the services of the casual labourers in future.

No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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