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Central Administrative Tribunal
Principal Bench

OA 2107/98

New Delhi this the 18th day of January, 2000

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

1. Shri Mukesh Kumar,
S/o Shri Raghbir Singh,
R/o G-80, Aram Bagh,
New Delhi.

2. Shri Rajpal Singh,
S/o Shri Mahipal Singh,
R/o B-46, South Ganesh Nagar,
Patpar Ganj Road,
New Delhi-110 092.

Applicants.

By Advocate Shri Surinder Singh.

Versus

Union of India through

1. The Secretary,
Min. of Information and Broadcasting,
Shastri Bhawan,
New Delhi -110 001.

2. The Dy. Director,
Song and Drama Division (DR),
15/16, Subash Marg,
Darya Ganj,
New Delhi-110 002.

Respondents.

By Advocate Shri R.V. Sinha.

O R D E R

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

The applicants are aggrieved by the oral order terminating their services w.e.f. 1.9.1998. Shri Surinder Singh, learned counsel for the applicants has submitted that in so far as Applicant 2 Shri Raj Pal Singh is concerned, he has been engaged elsewhere and he is not interested in pursuing his case for engagement.

2. Another claim raised by the learned counsel for the applicants is based on the DOP&T O.M. dated 7.6.1988

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(Annexure A-3). This O.M. relates to the policy regarding engagement of casual workers in Central Government offices. According to him, as per Paragraph 1(vi) of this O.M., the casual workers may be given one paid weekly off after six days of continuous work. Learned counsel has very vehemently submitted that this has not been done in the case of the applicants while they were in service for the aforesaid periods. In the circumstances, both the applicants have claimed that for every six days continuous work, they should be made payment for about 145 days for the entire period of their service with the respondents. He has also submitted that the applicants do not dispute the correctness of the statement given by the respondents in Annexure R-I showing details of the number of days worked by them, both in full time and part time capacity during the various periods mentioned therein. He has also submitted that as applicant 1 has completed more than 240 days of work, a direction may be issued to the respondents to re-engage him and grant him temporary status and other benefits.

3. I have seen the reply filed by the respondents and heard Shri R.V. Sinha, learned counsel.

4. The respondents have submitted that the applicants, were engaged as casual labourers on daily wages, both on part-time and full-time basis as per the requirements of the office work. Shri R.V. Sinha, learned counsel, has submitted that as per Annexure R-I, the respondents have also paid the applicants for the work done, including in some months for thirty days. They have also

submitted that most of the time, the applicants were engaged not as full time casual labourers but part-time daily wagers and, therefore, they are not governed by the provisions of the DOP&T O.M. dated 10.9.1993. They have, therefore, stated that they are not entitled to grant of temporary status. They have also submitted that the office observes a five days week for the Ministerial staff and a six days week for the staff artists who even work seven days a week when there are continuous programmes. The applicants worked sometime with the Ministerial staff and sometime with the staff artists as per the demand of work. Shri R.V. Sinha, learned counsel has submitted that the respondents have paid the applicants for Saturdays and Sundays and other holidays whenever they were engaged and they have never even made a representation or raised a complaint about any discrepancy in the payment of wages at any time earlier. They have further submitted that the applicants have not put in 240 days work in any year, and are not entitled to be granted temporary status. He has submitted that in the circumstances they have not violated any rules or guide-lines of the Government of India and the O.A. deserves to be dismissed.

5. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. From Annexure R-I statement, it is noticed that the applicants have been employed as casual labourers not only on full-time but on part-time basis for a number of years. The contention of applicant 1 that he has, therefore, completed 240 days in terms of the DOP&T O.M. dated 10.9.1993 and is entitled to temporary status in terms

of that O.M. is baseless as that O.M. does not refer to casual labourers working on part time basis as submitted by the respondents.

7. The DOP&T O.M. dated 7.6.1988 relied upon by the applicants relates to daily wagers who are recruited for work which is of casual, seasonal or intermittent nature or for work which is not of full time nature. The respondents have submitted that the applicants have been paid whenever they have been engaged on Saturdays and Sundays or on other holidays as also set out in the statement in Annexure R-I which has been accepted in toto by the learned counsel for the applicants. It is also noted that they have not even put in a representation earlier regarding this claim. Taking into account the facts and circumstances of the case, the claim of the applicants for extra payment for 145 days in terms of that O.M. is untenable, especially when they have not placed on record any documents to support their claim or controvert Annexure R-1. This claim is accordingly rejected.

8. The applicants' counsel has contended that although at some time previously the respondents had engaged two persons who were junior to Applicant 1, they have also since been terminated, which was also confirmed by Shri R.V. Sinha, learned counsel. It is clear from the above facts that the respondents have engaged the applicants as casual labourers depending upon the demand of work in their office. In the facts and circumstances of the case, the only direction that can be granted is that provided there is work of the nature Applicant 1 has been doing previously, and subject to his suitability and fulfilment of the conditions

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of the relevant rules and instructions, the respondents may consider engaging him in preference to outsiders and juniors. The other claims made by the applicants are rejected.

No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

'SRD'