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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.2335/98.

New Delhi: this the 18th day of March, 1999.

HON'BLE MR.S.R. ADIGE, VICE CHAIRMAN (A).

Shri Harinder Singh,
S/o Shri Ganga Singh,
R/o A-387, Minto Road,
New Delhi

..... Applicant.

(By Advocate: Sri H.C. Sharma).

Versus

Union of India,
through
Secretary,
Dept. of Rural Development, Krishi Bhawan,
New Delhi. Respondent.

(By Advocate: Shri R. V. Sinha).

ORDER

HON'BLE MR.S.R. ADIGE VICE CHAIRMAN (A).

Applicant seeks grant of temporary status w.e.f. 1.9.96 and wages for the period one Shri Keshav Datt who he claims is his junior was engaged in preference to him.

2. Applicant had earlier filed O.A.No.2687/96 claiming temporary status and regularisation as a Casual Labour on the basis that he had rendered service of more than one year (from 31.8.95 till 15.11.96) with respondents. That OA was disposed of after hearing both parties by order dated 21.1.98 in which it was held that applicant's claim had no legal basis. Respondents were however directed to consider reengaging applicant only as and when work became available in preference to juniors/freshers only in terms of the scheme and the law laid down on the subject.

3. Meanwhile Shri K. Datt had also approached the

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Tribunal in O.A. No. 1660/97 against his disengagement which was disposed of after hearing by order dated 19.9.97, with certain directions, including consideration for reengagement in preference to outsiders and those with overall lesser length of past service subject to availability of work; and upon reengagement, consideration for grant of temporary status.

4. Respondents admit in para 3 of their reply that pursuant to the aforesaid order dated 19.9.97 in O.A. No. 1660/97 Shri Keshav Datt has been engaged and has also been granted temporary status, which implies that he continues to be so engaged, while applicant was engaged only from 12.5.98 to 11.8.98 and then from 6.10.98 to 4.1.99 on which date he was disengaged.

5. Respondents themselves admit that applicant was initially engaged on 1.9.95 while Shri Keshav Datt was engaged nearly 6 months later on 27.2.96.

6. Under the circumstance, if respondents have engaged Shri Keshav Datt and also granted him temporary status they cannot ignore the claim of applicant who was initially appointed prior to Shri Keshav Datt.

7. Applicant's prayer for temporary status w.e.f. 1.9.96 cannot be acceded to, that prayer already having been considered and rejected vide order dated 21.1.98 in O.A. No. 2687/96 which operates as Res Judicata. Applicant's prayer for wages for the period Shri K. Datt was engaged in preference to himself also cannot be acceded

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to as applicant cannot be paid for the period he did not work.

8. However, as respondents have reengaged Shri K. Datt, who was initially engaged much after applicant, this O.A. is disposed of with a direction to respondents to consider engaging applicant also, for a continuous basis, on the equitable principle of 'first come, last go'; and pass a detailed, speaking and reasoned order in this regard within two months from the date of receipt of a copy of this order. Upon reengagement, applicant may work out his rights for grant of temporary status in accordance with the rules and instructions on the subject.

9. This O.A. is disposed of in terms of Para 8 above. No costs.

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(S.R. ADIGE)
Vice Chairman (A)

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