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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH  
NEW DELHI

O.A. No.2452 of 1998 decided on 11.1.1999.

Name of Applicant : Km. Taruna Mihani

By Advocate : Shri H.K.Gangwani

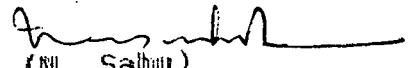
Versus

Name of respondent/s Union of India & others

Coram:

Hon'ble Mrs. Lakshmi Swaminathan, Member (J)  
Hon'ble Mr. N. Sahu, Member (Admnv)

1. To be referred to the reporter - Yes
2. Whether to be circulated to the other Benches of the Tribunal. ~~No~~

  
(N. Sahu)  
Member (Admnv)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 2452 1998

New Delhi, this the <sup>11<sup>th</sup></sup> day of January, 1999

Hon'ble Smt. Lakshmi Swaminathan, Member (J)  
Hon'ble Mr. N. Sahu, Member (Adminv)

Km. Taruna Mihani, D/o Shri M.L.  
Mihani, Research Investigator,  
Directorate of Adult Education,  
Jamnagar House, New Delhi.

-APPLICANT

(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 Bhavan, 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

ORDER

By Mr. N. Sahu, Member (A)

The applicant is aggrieved by the refusal of the respondents to regularise her services as a Research Investigator/ Data Entry Operator. She has been discharging this function after having been sponsored through Employment Exchange since January, 1993 and had put in more than 5 years of service on daily wage basis. She cites the case of one Sushil Kumar Sharma who is stated to have been regularised after putting in 4 years of service. She apprehends that the respondents would terminate her services. She preferred a representation on 17.3.1997 in which she prayed for, along with others, regularisation in the posts of Data Entry Operator.

2. We have heard the learned counsel for the applicant at the admission stage at length. He urged that the work of compiling and consolidating data received from various parts of the country under different schemes of Adult Education and the work of computerising the data received from literacy campaign districts for preparing monthly reports and annual reports are very important and crucial for helping the functioning of the National Literacy Mission. He urged that the applicant had put in continuously service of one year in the office of the respondents and attained temporary status and is entitled to all the attendant benefits permissible to temporary Government servants. She was deprived of those benefits. He further stated that in O.A.No.2457 of 1997 decided on 25.8.1998, in which the present applicant was one of the applicants, the respondents stated that they would sympathetically consider the claims of the applicants, having moved in the matter for creation of posts.

3. We have carefully considered the submissions made by the learned counsel for the applicant. We are afraid that there is no merit in this Original Application. The applicant cannot claim regularisation as a matter of right. The Government of India, Department of Personnel & Training in O.M.No.51016/2/90-Estt(C) dated 10th September, 1993 had laid down a scheme for regulating the claims of casual labourers. This scheme states that casual labourers who had put in at least one year with 206 days in the case of offices observing five days week

or 240 days in other- cases, would be conferred temporary status. Certain benefits are conferred on these temporary status casual labourers as mentioned in para 5 of the scheme. Whenever a post is available in Group 'D' these temporary status casual labourers are considered as per their seniority and eligibility. If no posts are available then they continue as daily wage workers. These benefits are strictly confined to casual labourers and the Government have conferred these benefits in accordance with the directions of the Hon'ble Supreme Court in the case of Surinder Singh and others Vs. Union of India delivered on 17.1.1986. (5)

4. The applicant cannot claim the benefit of either temporary status or regularisation because she is not a casual labourer. She is a computer professional and a skilled worker. The respondents have hired the services of the applicant as of many others for certain specific jobs which are described in detail in the Original Application. This is an usual feature in a computerisation programme. The Government departments entrust the work of Data Entry Operator or networking or installation of Systems either directly or through reputed agencies by a contract. The Government has every right as any other private operator to hire a professional for executing a specific type of work within a time frame. It can also hire any number of Data Entry Operators by paying daily wages. The applicant does not have any right to claim regularisation merely because she has been engaged for a long period. It

is well known that such regularisation can take place only when a post is available. Even when a post is available there are very well defined methods of recruitment by open advertisement: competition: and selection. These procedures are undertaken by impartial bodies like Public Service Commission. The applicant has been only hired for a specific type of work and as long as the project continues the applicant's services will be taken provided the employer considers such services as satisfactory. Thus, even if a post is available, the applicant cannot stake a claim for appointment to that post on the only ground that she rendered the services earlier. Such services rendered may count for experience which might be considered by the recruiting agency at the time of selection. The case of the applicant in no way is different from the engagement of any professional like a lawyer or a doctor for a specific purpose or for a specific period and engagement by itself does not create any vested right. It is not difficult to find an authority for such an obvious proposition. It would suffice to extract the law laid down by the Hon ble Supreme Court in State of U.P. Vs. Ajay Singh, (1997) 4 SCC 88 -

"There must exist a post and either administrative instructions or statutory rules must be in operation to appoint a person to the post. Daily-wage appointment will obviously be in relation to contingent establishment in which there cannot exist any post and it continues so long as the work exists. Under these circumstances, the Division Bench of the High Court was clearly in error in directing the appellant to regularise the services of the respondent who

was working as Nursing Orderly on daily wages, to the post as and when the vacancy arises and to continue him until then."


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5. The view taken by us in disposing of this Original Application is also supported by the following orders passed by this Court to which one of us (N. Sahu) is a party -


1. Yasoda Rani Vs. Union of India, (1988)  
38 ATC 231 (Single Bench Case)

2. Ms. Anita Bhambhani & another Vs. Union of India, O.A. 1044 of 1988 decided on 7.12.1998.

6. In the result we hold that this O.A. is not fit for admission and accordingly rejected at the admission stage.

  
(N. Sahu)  
Member (Admnv)

rkv.

  
(Smt. Lakshmi Swaminathan)  
Member (J)