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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA 303/98
MA 322/98

New Delhi this the 20th day of January, 2000

1. Prem Singh,
S/O Sh. Shanker Singh
2. Sher Singh S/O Sh. Netar Singh
Rawat, R/O K-144 A, Vijay Nagar,
Sector-i, Ghaziabad (UP)
3. Dhan Singh S/O Sh. Inder Singh,
R/O 3/50, New Prem Nagar, Delhi-3

.. Applicants

(By Advocate Shri Yogesh Sharma)

Versus

1. Union of India through the Secretary,
Ministry of Mines, Shastri Bhawan,
New Delhi.
2. The Director (Canteens),
Deptt. of Personnel and Training,
Lok Nayak Bhawan, 3rd Floor,
Khan Market, New Delhi.
3. The Under Secretary,
Govt. of India, Ministry of Mines,
Shastri Bhawan, New Delhi.

.. Respondents

(By Advocate Sh. R. V. Sinha through proxy
counsel Shri Rajesh Kumar Singh)

O R D E R (ORAL)

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

The applicants, three in number, are aggrieved by the order passed by the respondents dated 7.11.97. In this order ^{the} subject mentioned is "Termination of temporary status to the Daily Wagers/Casual Workers in the Ministry of Mines. Shri Yogesh Sharma, learned counsel for the applicants has submitted that immediately after the impugned order dated 7.11.97 was issued, the respondents have re-engaged the applicants as casual labourers on day to day basis. I find that this position is also stated by the respondents in the additional affidavit which has been submitted by the learned proxy counsel for the respondents, copy placed on record.

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2. The grievance of the applicants is that the respondents had earlier conferred 'Temporary Status' on the applicants in accordance with the DOP&T Office Memo. dated 17.3.1994(Ann.A.4). Learned counsel has submitted that after the respondents have conferred 'Temporary Status' on the applicants in accordance with their own rules and instructions, they cannot reengage the applicants on day-to-day basis, ignoring their Temporary Status. He has, therefore, prayed that the respondents may be directed to continue the services of the applicants, provided there is work but keeping in view the temporary status already granted to them and thereafter take action for regularisation as per the DOP&T Office Memorandum dated 10.9.93 and the later OM dated 20.3.97(Annexure A-3). In the OA, one of the reliefs prayed for is that the impugned termination order dated 7.11.97 may be quashed and set aside. That relief no longer survives as, admittedly, the applicants have already been re-engaged.

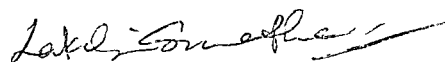
3. I have heard Shri Rajesh Kumar Singh, learned proxy counsel for the respondents and perused the records. As mentioned above, the respondents have themselves re-engaged the applicants on day-to-day basis for meeting the functional requirements of the Canteen. It is not denied by them that they have earlier conferred 'Temporary Status' on the applicants by their order dated 17.3.94.

4. It is seen from the above facts that the respondents had in fact granted 'Temporary Status' to the applicants by order dated 17.3.94 in terms of DOP&T O.M. dated 10.9.93. However, in the reply, they have submitted that the applicants are being employed only ^{on a} day-to-day basis. They have also contended that the applicants are not entitled to grant 'Temporary Status' in accordance with the DOP&T OM dated 10.9.93 and that the earlier action was erroneous. According to them, the benefits of the said OM cannot be granted as the applicants have not been recruited through the Employment Exchange. This contention, however, has to be rejected in the light of the judgement of the

Hon'ble Supreme Court in the case of Excise Superintendent Malkapatnam Vs. K.B.N.Visweswar Rao (1996(6) SCC 216). Besides, it is seen that the Govt.of India DOP&T later OM dated 20.3.97 relates to employees serving in non-statutory departmental Canteens/Tiffin Rooms. In this OM, it is provided that the concerned Ministries/Departments may immediately review the cases of the unregistered canteens/tiffin rooms functioning in the establishments under their control and also regularise the services of the employees who were borne on the rolls of such Canteens/Tiffin Rooms as on 1.10.1991 on regular basis and declare them as Government employees in terms of ibid instructions dated 29.1.1992.

5. In view of the above, this OA is allowed with the following directions:-

The respondents may continue to engage the applicants, provided there is work for them. They shall also be considered for regularisation in terms of the DOP&T O.M. dated 20.3.97, if otherwise they are eligible, taking into account their past services as claimed by the applicants from 1988 and 1991, respectively, subject to availability of vacancies. No order as to costs.



(Smt.Lakshmi Swaminathan)
Member (J)

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