

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 343/98

(A)

New Delhi this the 29 Day of May 1998

Hon'ble Shri R.K. Aahooja, Member (A)

Shri Rish Pal,  
Son of Shri Choul Singh,  
R/o B-5 Panchwati Colony,  
Distt. Ghaziabad, UP.

Petitioner

(By Advocate: Hori Lal)

-Versus-

The Union of India, through  
The Director General of Audit,  
Central Revenue, Indraprastha Estate,  
New Delhi

Respondents

(By Shri M.K. Gupta)

ORDER

The case of the applicant is that he has served with the respondents as a casual labour for various periods between 1990 to 1997. The applicant is aggrieved by the the oral order of termination of his services and seeks a direction to the respondents to give him temporary status from the date from which his juniors have been granted with all consequential benefits.

2. There is a chequered history of litigation in which over the years the applicant has been obliged to file any number of OAs apart from various MAs and contempt petitions. His grievance on each occasion has been the same i.e. that the respondents have terminated his services while engaging or retaining freshers or those who had put lesser service then him. On direction being given that the applicant be considered for appointment in preference

Or

2

to juniors and outsiders invariably he has been re-engaged but only for short period, and each termination of service has thereafter initiated the fresh round of litigation.

(5)

3. In so far as the present OA is concerned, there is no indication about any juniors being retained in engagement in preference to the applicant. The applicant, however, alleges that a vacancy of Group 'D' Peon has become available but instead of communicating this vacancy to the applicant and engaging him, the respondents have called for names of other candidates from employment exchange and issued them call letters. The respondents in their reply have stated that names have been called from the employment exchange only for the purpose of regular appointment in a Group 'D' vacancy and not for engagement as casual labourers. They have denied the claim of the applicant that he has put in sufficient number of days to qualify for the grant of temporary status and submit that unless and until the temporary status is conferred upon him he is not eligible to be considered for regularisation in accordance with the relevant Scheme.

4. I have heard the counsel on both sides and have gone through the record. The applicant claims to have put in 240 days service during 1995-96 and 241 days during 1996-97. To qualify for grant of temporary status, the applicant needs to put in a minimum of 206 days (where office observes a five days week) in a continuous period of 12 months. The

An

respondents, however, have denied this claim and in their counter have stated in Annexure R II that he has put in only 134 days in 1995-96 from 20.6.1995 to 19.6.1996 and 150 days between 27.11.1996 to 9.6.1997. It has been urged on behalf of the applicant that the periods mentioned by the respondents are not correct but that even otherwise any period during which the applicant was willing to work but was not afforded any engagement has to be counted towards calculation of the qualifying period for grant of temporary status and regularisation.

5. I do not find that this argument helps the case of the applicant. The grant of temporary status and thereafter regularisation is a part of a self contained Scheme which is itself the outcome of various directions of the Supreme Court and this Tribunal. The benefits to the casual labourers have been given on the assumption that their services are required on a long term basis as evidenced by engagement for a minimum of 240 days in each of the previous two consecutive years. For such an engagement there has to be of availability of work and willingness of the applicant to work. There can, therefore, be no notional calculation of engagement based on the willingness of the worker divorced from the availability of the work. Since I find that the applicant had not rendered the requisite period of service of grant of temporary status, he has no superior claim as against the outsiders for regular appointment. However, the respondents are obliged to consider him also along with the other candidates in case he applies for the same even without insisting

On

(b)

4

upon his name being sponsored by the employment exchange. OA is accordingly disposed of with the direction that even though the applicant has no right for regularisation under the relevant Scheme till he acquires temporary status, the respondents will consider him for the available vacancy along with others ~~in~~ case he applies for the same. In doing so they will also grant him age relaxation to the extent of the casual engagement admittedly put in by him as per the record of the respondents.

(F)

There will be no order as to costs.

*R. K. Ahuja* -

(R. K. Ahuja)

Member (A)

\*Mittal\*