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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No. 433/1998

New Delhi: this the 10th day of July, 1998.

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

Pawan Kumar S/o Shri Hem Raj Sharma,
R/o Q.No.97, Govt. Colony, Mohd.pur,
Sector-I, R.K.Purem,
New Delhi Applicant.

(By Advocate: Shri Yogesh Sharma)

Versus

Union of India through

1. The Secretary,
Secretariat of the Election,
Commission of India,
Nirvachan Sadan,
Ashok Road,
New Delhi .

2. The Under Secretary,
Secretariat of the Election,
Commission of India,
Nirvachan Sadan,
Ashok Road,
New Delhi

..... Respondents.

(By Advocate: Shri Arun Birbal)

JUDGMENT

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

Applicant impugns respondents' order dated 10.2.98 (Annexure-A1) to the extent that it justifies his non-consideration by respondents for grant of temporary status under the Casual Labourers (Grant of Temporary Status & Regulation) Scheme, 1993 and seeks a direction that the action of respondents compelling him to work as a Sweeper is illegal, unjust and arbitrary.

2. Admittedly applicant worked with respondents continuously as a Casual Labourer from 21.3.97 to 28.11.97 after which he was disengaged. He filed OA No.130/98 alleging that while he had been disengaged, although his services were satisfactory, respondents had

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engaged freshers from the open market, which violated the aforementioned Scheme. Noticing that applicant's representations dated 26.12.97 and 12.12.97 to Respondent No.2 still remained unanswered, the Tribunal by its order dated 12.1.98 directed respondents to dispose of applicant's representations within a specified time limit and while doing so spell out clearly whether applicant's case fell within the parameters of the Scheme, and why he was not preferred to freshers and outsiders.

3. Pursuant to the above directions, respondents issued the impugned order dated 10.2.98 against which the present OA has been filed.

4. In so far as applicability of the Scheme to the present applicant is concerned, the impugned order dated 10.2.98 states that as applicant was not in employment with respondents on 10.9.93 on which date the OA containing the Scheme came into force, applicant's case is not covered by the Scheme. It is now well settled through a catena of judgments that it is not necessary for the Casual Labourer to have been in employment on the date of issue of the OA containing the Scheme i.e. 10.9.93 for that Casual Labourer to be covered by the benefits of the Scheme, and its benefits will be available to all those Casual Labourers who have put in the requisite length of continuous qualifying service, even if they were taken in employment after the date of issue of the OA containing the Scheme. In the present case as respondents do not deny that applicant was in employment with them from 21.3.97

to 28.11.97 the rejection of his claim for grant of temporary status merely because he was not in employment with respondents on 10.9.93 cannot be sustained. Applicant would be entitled to grant of temporary status on completion of the length of continuous service prescribed in Para 4(1) of the Scheme and the benefits flowing therefrom as contained in paras 5, 6 & 7 of the Scheme. Respondents should issue appropriate orders in this regard within one month from the date of receipt of a copy of this order.

5. Respondents by impugned order dated 10.2.98 have reengaged applicant, but he complains that he has been put to work as a Sweeper while persons junior to him are working as peon etc. The aforesaid Scheme does not distinguish between different categories of Casual Labourers and applicant cannot be allowed to choose the type of work he wants to perform. However subject to any other suitable Class IV opening being available, liberty is given to respondents to adjust applicant against the same.

6. The O.A. is disposed of in terms of paras 4 & 5 above. No costs.

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

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