

Central Administrative Tribunal
Principal Bench, New Delhi

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R.A.No.100/95 in
O.A.No.1846/94

New Delhi this the 18th day of May, 1995.

Hon'ble Shri J.P. Sharma, Member (J)
Hon'ble Shri B.K. Singh, Member (A)

1. Shri Ravinder Kumar
S/o Late Shri Khimman Lal
House No.
2. Shri Ramesh Chand
S/o Shri Tek Chand,
Village Mandoli
Nand Nagri Extension,
Delhi-93
3. Shri Ashok Kumar
S/o Dhani Rai
House No.55-56,
H Block, Old Seemapuri,
Delhi- 93
4. Shri Samay Lal,
S/o Shri Ram Bihari,
House No 202
B Block Gali No 11
Delhi- 53
5. Shri Chandra Prakash,
S/o Shri Sant Ram,
Village Madanpur Dabas,
Delhi.Applicants

(By Advocate : None)

Versus

1. Union of India, through
Secretary,
Ministry of Human Resources Development,
Shastri Bhavan, New Delhi.
2. Under Secretary,
Department of Service & Supply
Shastri Bhavan,
New Delhi.Respondents

(By advocate : None)

O R D E R (by circulation)

(By Hon'ble Shri B.K. Singh, Member (A))

This Review Application No.100/95 has been
filed against the judgement and order in
O.A.No.1846/94 where the relief prayed was "to

(2)

direct the respondents to continue to engage the applicants in Group 'D' post in Class IV and grant them the temporary status and regularise their services."

(A)

2. It was argued by the learned counsel Dr. M.P. Raju that the applicants have completed 206 days or more in a year if their total engagement is taken into consideration before coming into force of the Casual Labour (Grant of Temporary Status and Regularisation) Scheme, 1993. The scheme came into effect from 1.9.1993. Thus the scheme was applicable to Casual labourers in the Ministries /departments and also attached and subordinate Offices on the date of the issue of the said O.M. The scheme lays down that temporary status would be conferred on all the casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days in an Office observing six days week and 206 days in case of Office observing 5 days a week. Thus it would be seen that the relief prayed for engagement against regular group 'D' posts in Class IV and to grant them the temporary status and regularise their services is like putting the cart before the horse.

(B)

(3)

3. As a matter of fact grant of temporary status comes first and if Group 'D' posts are available, their regularisation will be in their own turn as per their seniority. Therefore, the relief prayed for is vaguely and inaccurately worded and is almost the reverse of what the scheme envisages. The spirit of the Circular is that the broken periods during the year will not be taken into consideration and there should be an uninterrupted service of either 206 days in an office observing 5 days week or 240 days continuous service in an Office observing six day week. And this would on a simple construction of the language of the scheme would be applicable to all those who are in employment on 1.9.93 and have either completed in that period from or were likely to complete it w.e.f. 1.9.93. The language of the Circular is plain and unambiguous and there is no question of importing something which is not there. These applicants had neither completed 240 days or 206 days in 1993 or subsequently thereof when they were disengaged when the Circular came into force. The statement shows that they had completed this service before the Circular came into effect. The continuous 240/206 days should have been completed either on 1.9.93 or thereafter without any break. This did not happen and as such the relief prayed for was disallowed.



(4)

4. Although there is delay in filing the application but the delay is condoned. On merits there is no case. The casual employment is for seasonal work and is not of a perennial nature and as and when there is requirement, the casual workers are engaged and they are disengaged when the work is over and such a work is not connected with the creation of a post as envisaged in the scheme of the DOPT w.e.f. 1.9.93. The scheme itself lays down that it has nothing to do with the creation of group 'D' posts. Therefore, the question of granting the temporary status to the applicants does not arise. It has also been held by the Hon'ble Supreme Court in Judgement Today 1994 (1) SC 157; Udaya Bhan Rai Vs State of U.P. and Others.

5. The review lies under Order 47 rule (1) which stipulates that there should be error apparent on the face of the record. The error pointed out by the review applicant does not exist in the case because it is based on the interpretation of the scheme evolved by DOPT effective from 1.9.93 that the previous period of 1991, 1992 will not be relevant unless it is shown that they completed 240/206 days on the date the aforesaid O.M. came into force i.e. on 1.9.93, or continued thereafter and completed 240/206 days without any break. From the statement filed it is clear that they have not completed this period in question on the relevant date nor thereafter. There is nothing else which

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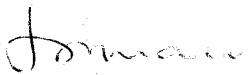
(5)

has been stated in the review application and as such this ^{new} application is rejected summarily under order 47 rule (4)(1) of the C.P.C.



(B.K. Singh)

Member (A)



(J.P. Sharma)

Member (J)

SSS