

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.NO.1583/95

Hon'ble Shri Justice B.C.Saksena, Vice-Chairman(J)  
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 9<sup>th</sup> day of February, 1996

Bishamber Dutt  
s/o Khushal Mani  
r/o K-12  
LIC Colony, Dilshad Garden  
New Delhi.

... Applicant

(By Shri G.S.Begrar, Advocate)

Versus

Union of India through

1. The Chief Controller of Defence Accounts  
Block No.4  
R.K.Puram  
New Delhi.

2. Controller of Defence Accounts  
Ministry of Defence  
Head Quarters  
G - Block  
New Delhi.

3. Assistant Labour Commissioner  
Central -2 Curzon Road  
New Delhi.

... Respondents

(By Ms. Pratima Gupta, Advocate)

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

The grievance of the applicant is that he has completed six years of service in the employment of Respondent No.1 and 2 but his services have not been regularised. The applicant claims that he was appointed on daily wages basis as a Class-IV employee on 1.10.1989 on consolidated pay of Rs.500 per month which was raised to Rs.600 per month in 1994. However from February, 1995, the applicant is being paid at the rate of Rs.42.05 paise per hour and is being treated as a Part-time worker even though he performs duty for six hours per day. The applicant had approached the Assistant Labour Commissioner through Mazdoor

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Union but on a question of jurisdiction being raised by the respondents, the applicant has come before this Tribunal. The respondents deny the claim of the applicant and submit that the applicant has been working purely as a Part-time worker getting consolidated monthly payment worked out on an hourly basis. They have also submitted that as per the Govt. of India Instructions dated 12.7.1994, the part-time casual employee cannot be bestowed the temporary status.

2. The learned counsel for the applicant argued before us that the respondents on their own admission are using the services of the applicant for 5 to 6 hours daily and if the normal rest period for lunch is taken out the working hours more or less are equal to those of regular employees. Furthermore, the applicant was being given a consolidated pay and if it had <sup>been</sup> a payment on hourly basis then there would have been <sup>difference</sup> ~~references~~ in payment every month. He alleged that it was only from February, 1995, after the applicant approached the Assistant Labour Commissioner, that the respondents started paying him wages on an hourly basis. He also invited our attention to the Hon'ble Supreme Court order in Writ Petition No.253/88 (Prakash Chand & Others Vs. Delhi Administration and Others) in which the respondents were directed to formulate a scheme for the regularisation of the services of all those who had been in service for more than one year and to ensure that till the date of regularisation the services of such employees are not terminated.

3. We have carefully considered the pleadings and arguments of the learned counsel on either side. It is an admitted fact that the applicant has been working for a period of six years with the respondents. It is also not denied by the respondents that the applicant was being paid a

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consolidated wage of Rs.500 and later Rs.600 per month even though the respondents state that it was calculated on the basis of the hourly rate. In our view, the situation of a person who has been in uninterrupted employment for a period of nearly six years and whose being given consolidated salary cannot be considered to be any different from that of a casual worker who is entitled to regularisation in terms of the scheme prepared by the respondents. It would not have been possible for the applicant to constantly put in the same hours everyday and to earn the same consolidated salary month after month over a period of six years. This also implies that the work for which the applicant was engaged was not of an occasional nature and the services of the applicant had been required for the respondents on a constant and regular basis.

4. In the circumstances, we find substance in the claim of the applicant that he is entitled to be considered for regularisation in accordance with the scheme applicable to casual employees. The application is accordingly allowed with a direction to the respondents to consider the claim of the applicant for regularisation for grant of temporary status and for regularisation treating him to be a casual worker. There is no order as to costs.

Rkachas  
(R.K.AHOOJA)  
MEMBER(A)

/RAO/

Bc Saksena  
(B.C.SAKSENA)  
VICE-CHAIRMAN(J)