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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1696/ 95

New Delhi this the 13th day of November 1995

Hon'ble Shri N.V.Krishnan, Acting Chairman

Hon'ble Shri D.C.Verma, Member (J)

1. Kiran Kishore
S/o Shri Kishore Kumar
r/o C-68, DDA Flats,
New Ranjeet Nagar,
New Delhi.

2. Sanjay Kumar
S/o Shri Prakash
r/o 1236, Sector-I,
R.K.Puram,
New Delhi.

.....Applicants

(By Advocate: Shri K.C.Mittal)

Versus

1. Union of India,
through Secretary,
Ministry of Information and Broadcasting
Shastri Bhawan,
New Delhi.

2. Director,
Research, Reference & Training Division,
Ministry of Information and Broadcasting,
Shastri Bhawan,
New Delhi.

.....Respondents

(By Advocate: Shri M.K.Gupta)

ORDER (Oral)

Hon'ble Shri N.V.Krishnan, Acting Chairman

The two applicants before us were engaged on a daily wage basis as Casual Labourer. Applicant No-1 joined in June 1993 and 2nd applicant on 23-7-94. Their grievance is that they have not been allowed to mark attendance by the respondents from 7-9-95. It is alleged that this is inviolation of the OM issued by Respondents

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on 10-9-93 (Annexure A-3) according to which the applicants should be given temporary status .

/ dated
10.9.93 and

subsequent

2. Hence the applicants have prayed for declaration that the applicants are temporary employees in terms of O.M. / O.M. dated 29-10-93 issued by respondents and consider the applicants for further regularisation in terms thereto and to restrain the respondents from terminating the services of the applicants.

3. The respondents have filed a reply contesting these claims. It is contented that the Annexure A-3 scheme would apply only if the casual employees have rendered the requisite number of days of service as on 1-9-93, when the scheme came into force. The applicants were disengaged as there was no work.

4. When the matter came up today for final hearing, the Ld Counsel for the respondents was fair enough to point out that this issue is no more resintegra. The issue has been decided on 16-2-95 by the Principal Bench while disposing of Contempt Petition No. 345/94 in OA 346/94 Ram Krishan and Others Vs. SDO Telephones and another. It was held therein as follows:-

"8. All the same, to avoid further litigation. it is proposed to examine whethor the applicants are oligible for consideration of temporary status. We note that the scheme comprises two portions. One of these relates to regularisation on Group 'D' vacancies and the other relates to conferment of temporary status. As regards regularisation in Group 'D' vacancies, the scheme envisages

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absorption of all eligible casual labourers to whom the scheme is applicable. On this aspect, we do not see any restriction that only those casual labour who were in service as on 1.10.1989 should be given consideration. The scheme had been envisaged to be effective from 01.10. 89 onwards.

The second portion of the scheme relating to conferment of temporary status is preceded by the preamble in para 4(B). This sub-para indicates that pending absorption in Group-D of all casual labour to whom the scheme is applicable, the aim is to at least confer temporary status. We note that the scheme, as such, is applicable to the casual labour employed by the Department, as per para-3 of the scheme and in this para, there is no mention of any date. If absorption is aimed at for all casual labourers, temporary status must also be extended to all of them. We also take into account the oral submission on behalf of the respondents that engagement of fresh casual labour had been stopped even prior to the introduction of the scheme. In the circumstances, we do not see how the benefit of temporary status cannot be extended to the applicants. Accordingly, we clarify that the benefits of temporary status should be extended to the applicants. This may be done within a period of three months from the date of the receipt of this order." (emphasis given)


5. It is thus clear that the scheme is to be applied to persons who fulfil the specified eligibility criteria of length of service at any time even after 1-9-93. We are therefore of the view that the applicant is entitled to temporary status in terms of scheme dated 10-9-93 (Annexure A-3).

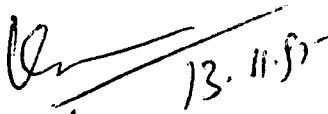
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6. The further question is about a direction to be given to the Respondents not to terminate the applicant. Ld Counsel for the respondents points out that it is also provided in para-7 of the scheme that the employer can dispense with the services of a casual labour by giving a notice of one month in writing and a similar right is given to the casual employee.

7. In these circumstances we are of the view that this OA should be disposed of with a declaration that the applicant is entitled to the benefit of the scheme (Annexure A-3) and that his termination will be only in accordance with law and more particularly with reference to the provisions of the above scheme. We therefore, quash the order of termination dated 7-9-95 and, accordingly, direct the respondents to take the applicant back within one month from the date of receipt of this order. There will be no order regarding back wages in the circumstances of the case. We make it clear that it will be open to the respondents to terminate the services of the applicant in accordance with law as mentioned above and it would also be open to the applicant to challenge the termination in accordance with law if so advised.

8. The OA disposed of accordingly. No costs.


(D.C. VERMA)
Member (J)


13.11.95
(N.V. KRISHNAN)
Acting Chairman

cc.