

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.1334 of 1996

New Delhi, this the 3rd day of April, 1998

Hon'ble Mr. N. Sahu, Member (Admnv)

(b)

1. Shri Tara Chand S/o late Shri Ganga Shay, aged about 30 years, R/o House No.170A, DII, Sanjay Colony, Sector 33, N.I.T. Faridabad.

2. Shri Balram S/o late Shri Keachero, aged about 36 years, R/o Vill and P.O. - Peer Colony Pali, Distt. Faridabad.

APPLICANT

(By Advocate Shri Surinder Singh)

Versus

1. Union of India - through Director General, Geological Survey of India, A-II Wing, Pushpa Bhavan, Madangir, New Delhi-110062

2. The Dy. Director, Geological Survey of India, Opp. H.O. & H.P. NH-5P, N.I.T. Faridabad-121001

RESPONDENTS

(By Advocate Shri Vijay K. Mehta)

O R D E R

By Mr. N. Sahu, Member (Admnv) -

The claim in this Original Application is to direct the respondents to extend all the benefits to the applicants with effect from 1.10.1991 and treat them as Central Government employees from that date with back wages. There is also a prayer for a direction for payment of allowances for purchase of uniforms and for extension of other benefits.

2. The admitted facts are that, the two applicants were engaged on 1.8.1988 as Helper and Tea-Maker respectively in one of the six units of the Geological Survey of India (in short 'GSI')

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covering part of the Northern Region. The appointments were on a fixed contract basis. The appointments were for four persons of whom two were Malis. These appointments were periodically renewed but the renewal was also continuous. The first renewal was on 18.10.1989 and thereafter renewals were made 9 times. The applicants were initially paid Rs.544/- per month but eventually in 1996-97 they are being paid Rs.1565/- per month. The respondents contend that there exists no sanctioned post of Tea Maker or Wash Boy in GSI, Faridabad Office. There is also a ban on creation and there was no scope for filling up of the post in a non-statutory registered departmental canteen. Hence the applicants continued to work on contract basis. Under these circumstances it is urged that the applicants cannot be granted status of a regular Government servant, nor they are obliged to accord regular status to the contract workers.

3. It is urged by the applicants that the Hon'ble Supreme Court has held that employees of non-statutory departmental cooperative canteens/ tiffen rooms located in any Central Government office have to be treated as Central Government employees with effect from 1.10.1991. These canteen/ tiffen rooms should be registered with the Director of Canteens and located in Central Government offices. The applicants' case is, not that they are working in a cooperative canteen. Yet the applicants state that the instructions of the Ministry of Personnel dated 29.1.1992 are not

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implemented. The basic question in this case is can a Tea Maker and a Wash Boy declare themselves as employees of a departmental canteen? There is no material before me to substantiate that a full-fledged canteen, as it is normally understood, is operative. Every office appoints a Tea Maker or a Wash Boy. That action does not give rise to the existence of a departmental canteen. I have not been shown any material to substantiate as to the hierarchy in this structure i.e. the constitution of this canteen. Does it maintain regular accounts and close the accounts at the end of the year? Does it have a bank account? Is its annual turnover impressive enough to elevate it to the status of a canteen? It looks to me that a mere tiffen room boy or a wash boy put together do not add up to what is normally understood as a canteen. I do not think the Supreme Court's decision applies to such cases of random employees. I find that these two employees styling themselves as forming a canteen do not claim to be run either by a cooperative society or by a Director.

4. Even so, the claim of the applicants for eventual regularisation can not be dismissed. They have been regularly working for the last 9 years. I do not even see any real breaks in their service; some of those occasional breaks are more technical than real. The respondents are apparently satisfied with their services; otherwise there was no need for them to renew their appointments 9 times over through a decade. They have been faithfully

rendering the services as Tiffen Room Boy and Wash Boy. They must be treated as a casual labour and their cases do come within the frame work of the Scheme laid down by the Ministry of Personnel. They have satisfied the main criterion regarding completion of 240 days of service in a year over a period of 9 years by now. The constitutional philosophy of their right to sustenance has found recognition in the pronouncement of the Apex Court time and again. In Dharwad Distt. P.W.D. Literate Daily Wages Employees Association Vs. State of Karnataka and others, AIR 1990 SC 883. The Apex Court observed that putting an end to an uncertainty by regularisation within a reasonable time has been recognised as a constitutional goal. Again in State of Orissa and others Vs. Sukanti Mohapatra and others, (1993) 2 SCC 486 the same thought is echoed. Right to work and the right to live have found recognition under Article 21 of the Constitution and in the directive principles.

5. In the light of the long and satisfactory service rendered by the applicants the following directions are issued - (a) the respondents shall within a period of 4 weeks from the date of receipt of a copy of this order grant temporary status as envisaged in the Scheme of the Ministry of Personnel to all casual labourers; (b) the applicants' right in their turn must be considered for any vacancy in Group 'D' post; (c) the respondents must await the sanction of the posts prayed for and as soon as the sanction is received consider the claim of the

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applicants as a matter of priority; and (d) even for a Group 'D' vacancy arising in any of the branches of the GSI the applicants' case must be considered provided there are no persons senior to them waiting in the queue. The Original Application is disposed of with these directions. No costs.

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(N. Sahu) 3.4.98
Member (Admnv)

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