

Central Administrative Tribunal, Principal Bench

O.A.No.1639/96

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

New Delhi; this 19th day of March, 1997

1. Chaman Lal
r/o 7030/2, Rameshwari, Nehru Nagar
Karol Bagh, New Delhi.
2. Tilak Singh
r/o Village Sihhi
Sector - 8,
Faridabad (HR).
... Applicants

(By Shri A.K.Bhardwaj, Advocate)

Vs.

1. Union of India through
The Secretary
M/o Labour & Employment
Government of India
Sharam Shakti Bhawan
New Delhi.
2. Assistant Provident Fund Commissioner
Employees Provident Fund Organisation
Central Office
14, Hudco Vishala, Bhikaji Kama Place
New Delhi - 110 066.
... Respondents

(By Shri K.C.Sharma, Advocate)

O R D E R(Oral)

Applicants submit that though they had worked with the respondents for various periods, their services were dispensed with effect from 1.2.1993. They approached this Tribunal in OA No.235/93 which was disposed of on 7.5.1996 with a direction to the respondents that subject to the availability of work they should consider the applicants for reinstatement as Casual Labourers in preference to outsiders and those with lesser length of service. As regards the prayer for regularisation it was observed that it would depend upon the availability of the vacancies and the respondents were directed as and when they fill up such vacancies on regular basis to also consider claims of the applicants subject to the eligibility and in accordance with the relevant Rules and

instructions on the subject. The applicants are aggrieved that the though respondents have considered them for regularisation, they have rejected their claim on the specious argument that they had not completed 240 days casual employment in two consecutive years.

2. The respondents in their reply deny the above allegation. They say that though the applicants could not be granted temporary status since they had not rendered 240 days casual employment in two consecutive years, they were duly considered for regularisation. There is a condition laid-down that such regularisation can take place only when the casual workers have rendered 240 days service in two consecutive years which requirement was not met by the applicants. They further state that the applicants were also considered for employment as a direct recruits but were not found suitable on merit and therefore, they were not selected.

3. I have heard the learned counsel on both sides. The learned counsel for the applicants argues that though the applicants have not rendered the requisite service of 240 days in two consecutive years, nevertheless, the respondents went for and selected total outsiders in preference to the applicants. The learned counsel for the respondents points out that even though the applicants could not be regularised because they had not put requisite casual work in a two consecutive years, nevertheless, in compliance with the directions of this Tribunal in OA No.235/93, they were duly considered when the vacancies were being filled in along with those who were sponsored by the Employment Exchange. Since however, the selection committee did not find them suitable, they were not selected in that interview.

4. I have carefully considered the matter. In my opinion there are two different points involved:-

(a) the question of regularisation under the scheme on the basis that the applicants have rendered casual work with the respondents. According to the scheme the applicants are entitled to be granted temporary status if they have rendered the requisite days of casual work. They are thereafter also to be considered for regularisation in accordance with Rules. The respondents state that the Rules required a minimum of 240 days in casual service in two consecutive years. Since the applicants do not possess this experience, they are not eligible for consideration under the Rules. Hence, there is no case for regularisation on the basis of the casual labour rendered by them.

b) The other question of their consideration as direct recruits. The learned counsel for the applicants cited a Judgment of the Hon'ble Supreme Court in the case of The Excise Superintendent Malkapatnam, Krishna Dist, Andhra Pradesh vs. K.B.N.Visweswara Rao & Others, JT, 1996(9) SC page 638, whereby the Hon'ble Supreme Court held that the department should not only call the names from the Employment Exchange but also by publication in the news papers having wide circulation and also to display on their office notice boards or announce on the radio, television and employment news bulletins; and then consider the case of all the candidates who have applied. In this case the respondents had not only displayed the names on the notice Board but had duly considered the applicants. Respondents claim that the applicants were not found suitable on merits. The learned counsel for the applicants' argument that the sole reasons for rejection was that they have not rendered casual service of

240 days. I do not find any reason to doubt the version of the respondents that applicants were considered on merit and not having been found fit they were not selected. Respondents had a right to be considered for appointment as direct recruit in accordance with the directions of this Tribunal, in O.A No.235/93. They were duly considered. They cannot claim as a matter of right that since they had some experience of working in the department as casual labour they must be selected.

5. Since I find that applicants, on both counts, have no claim for automatic regularisation, the OA is found to be without merit and the same is accordingly dismissed. This is however without prejudice to the applicants' right accrued under the earlier judgment. No costs.

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

/rao/