

Central Administrative Tribunal
Principal Bench

O.A. 2282/96

New Delhi this the 31 th day of December, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Shri Yad Ram,
S/o Shri Latoori Ram,
R/o H. No. C-12, Jiwan Park,
Pankha Road, Uttam Nagar,
New Delhi.

... Applicant.

By Advocate Shri B.S. Jain.

Versus

Union of India & Ors.

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

2. Director General,
All India Radio, Akashvani
Bhavan, Parliament Street,
New Delhi.

3. Chief Engineer (NZ),
All India Radio & Doordarshan
Jamm Nagar House, Shahjahan Road,
New Delhi.

... Respondents.

By Advocate Shri R.P. Aggarwal.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant who was appointed by the respondents as a Casual Helper on work charged basis is aggrieved that although, according to him, his services have been utilised by the respondents for the last 7 years from 18.1.1990 to 31.3.1996, he has been disengaged by verbal orders w.e.f. 1.4.1996. He has prayed that a direction may be given to the respondents to treat him as a Casual Labourer w.e.f. 1.4.1996 and

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give him regularisation and other benefits in terms of DOP&T O.M dated 10.9.1993 as he has worked for more than 240 days in two consecutive years.

2. The applicant has given the details of his working days in para 4.4. of the application from 1.1.1990 to 31.3.1996, and in intermittent spells when he was not working with them. He has submitted that he was not allowed to work with the respondents arbitrarily and maliciously in spite of the fact that there was work with the respondents. However, he submits that he was engaged from 1.1.1994 to 31.3.1996. He has submitted that he had made several representations to the concerned officers whom he had also met personally but nothing has been done. According to him, he has worked in two consecutive years in 1994 and 1995 which entitles him for regularisation in terms of the DOP&T.O.M. dated 10.9.1993. Shri B.S. Jain, learned counsel for the applicant, has relied on a number of judgements (list and copies of judgements placed on record). He has also relied on *Raj Kamal & Others vs. Union of India & Ors.* (1990(13) ATC 478) and *State of Haryana vs. Piara Singh* (1992 (21) ATC (SC) 433) and submits that the respondents ought to regularise him as he fulfills the conditions and the respondents have got several projects in which he could be engaged. Shri B.S. Jain, learned counsel, has laid great emphasis on the annexures to the application which according to him gives a list of working days in 1995. The applicant also relies on the certificate issued by the Installation Officer, Jammu that the applicant worked as Casual Labourer from 20.5.1990 to 30.10.1990, the passes issued to him in

1991 and the Identity Card issued on 11.4.1994 (Collectively placed as Annexure A-4). The applicant's counsel, therefore, submits that the applicant is entitled for regularisation and re-engagement as he had fulfilled the eligibility conditions provided in the O.M. of 10.9.1993 and work was also available with the respondents.

3.

The respondents have filed their reply and we have also heard Shri R.P. Aggarwal, learned counsel for the respondents. According to them, the applicant had only worked for 171 days from 3.1.1994 to 10.10.1994, which was submitted as wrongly typed for 10.11.1994 at the time of hearing, when he was disengaged. They have also denied that the applicant had worked from 1.1.1996 to 31.3.1996 or that he had worked for more than 240 days in two consecutive years from 1.1.1994 to 31.12.1994 and 1.1.1995 to 31.12.1995. They have submitted that he was disengaged in November, 1994 as there was no work for casual workers. The learned counsel has also drawn attention to the reply where the respondents have denied the Annexure A-3 documents as part of any official records which they state have been prepared by the applicant himself. It is also noted that the documents on which much emphasis was placed by Shri B.S. Jain, learned counsel for the applicant, to show that he had worked in 1995, does not appear to be from any official records. The respondents have, therefore, submitted that since the applicant had worked only for 171 days in 1994 he cannot be given temporary status nor can he be regularised in terms of the DOP&T orders dated 10.9.1993.

4. The applicant has filed a rejoinder in which he has more or less reiterated the same averments as made in the application and submits that the respondents have admitted that he has worked for 336 days in 1990 and 1991 and 170 days from 3.1.1994 to 10.10.1994 and so he is entitled to temporary status. He has also prayed for production of the relevant documents, but in the circumstances of the case this is rejected.

5. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties. I am not in a position to come to the conclusion that the claim of the applicant that he had worked for 336 days in 1990 and 1991 is either admitted by the respondents or borne out from the materials on record. Admittedly, the applicant did not work between 1.1.1992 and 1.1.1993. The claim that he had subsequently worked from 1.1.1994 ^{to 18} ~~after~~ 31.3.1996 ~~also~~ cannot be accepted as the respondents have denied that the documents he is relying upon are from official records, and it is also noticed that these documents do not bear any signatures or official seal of the respondents to show that they are from official records. The other documents relied upon by the applicant, namely, the passes issued to him in 1991 do not also establish that he had actually worked with the respondents as Casual Helper so as to fulfil the eligibility conditions as prescribed in the DOP&T O.M. dated 10.9.1993 i.e. that he was engaged as a casual worker for a period of at least 206 days. The Supreme Court in a recent judgement Union of India & Ors. Vs.
 18

Ram Niwas & Ors. (Civil Appeal No. 835/95) has clearly stated that there is no Scheme of the appellants (Union of India) for regularisation of employees who have completed less than 240 days of service in a year, and in the present case according to the respondents 206 days as the respondents were observing five days a week. The Supreme Court has held that the person who is to be regularised must be eligible and qualified for the post in which he is to be regularised and since in the case of the two respondents this was held to be lacking, the appeal was allowed. In the present case also, since the applicant has failed to establish that he fulfils the required period of service as casual worker in the office of the respondents as prescribed in the Government O.M. dated 10.9.1993, this application fails and is dismissed. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

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