

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA-2607/96

New Delhi this the 21st day of January, 1998.

HON'BLE MR. S P BISWAS, MEMBER (A)

Harender Singh
S/O Sh. Ganga Singh
A-387, Minto Road,
New Delhi.

*****Applicant.

(By Advocate Dr. D C Vohra)

Versus

Union of India, through

1. Secretary
Dept. of Rural Development
Krishi Bhawan, New Delhi.
2. Under Secretary (G)
Dept. of rural Development
Krishi Bhawan, New Delhi. *****Respondents.

(By Advocate Sh. R P Aggarwal)

ORDER
HON'BLE MR. S P BISWAS, MEMBER (A)

The applicant claims grant of temporary status and regularisation as casual labour on the basis that he has rendered services of more than 1 year (from 31.8.95 till 15.11.96) with the respondents. As per the learned counsel for the applicant, the latter was selected for the post of daily wage employee/ casual worker out of a number of nominees by the local Employment Exchange, duly screened, interviewed and appointed thereafter. The respondents have illegally resorted to drawing a distinction between casual labour and daily wage employee in an attempt to deprive the applicant of his fundamental

right of being treated equal before law in the matter of public employment. The applicant would also submit that his Identity Card No. 6464 was not allowed to be renewed beyond 15.11.96 arbitrarily and thereby he was prevented from signing the attendance register illegally.

2. In the counter, the counsel for the respondents have opposed the claims. It has been submitted that the grant of temporary status to casual workers are governed by the terms and conditions contained in GOI's circular No. OM-51016/2/90-Estt.(C), dated 10.9.1993. As per instructions contained in the above OM, temporary status can be confirmed only to those casual labourers who were in employment on the day of issue of the aforesaid OM. Conferment of temporary status is also on the basis of fulfilment of other conditions stipulated in the said OM. Since the applicant was not on the role of the respondents on 10.9.1993 and that he was engaged only on 1.9.1995 i.e. two years after the issue of the said OM, the conditions of granting him temporary status are not fulfilled in applicant's case. The applicant's representation dated 15.11.1996 was duly examined and he was told verbally that it was not possible to agree to his request for granting temporary status since his case is not covered under the scheme formulated by the respondents. The respondents would also submit that there is no work at present against which the applicant could be re-engaged.

The perusal of the records would show that the applicant's name was recommended by the D.S.C. for appointment as a daily wage worker in the Department along with one Sh. Rajinder Singh. Vide his communication dated 15.11.96 (Annex.-6), the applicant has also conceded of having been employed as a daily wage worker.

The rules that would govern the case of a daily wage worker like the applicant herein has been laid down by the Appex Court in the case of **State of U.P. and Others Versus Ajay Kumar JT 1997 (3) SC 219**. It has been held therein that daily wage employment is obviously in relation to contingent establishment in which there cannot exist any post and it continues so long as the work exists. Under this circumstances, it would not be appropriate for the Tribunal or Court to direct the respondents to regularise the services of the applicant to a post as and when vacancy arises and continue them until then.

The applicant would then urge that he could be absorbed or provided temporary status or given offer of appointment in preference over outsiders/ freshers giving him due weightage. The concept of preference over outsiders/ freshers and concept from giving weightage to casual labourers/ daily wagers are not based on any principle or precedent. For that matter several decisions of the Hon'ble Supreme Court including **Dr. Arundhati Ajit Pargoarkar Vs. State of Maharashtra and**

Other, JT 1995 (5) 378 have taken the view that service which is not regular will confer no benefit on an employee. The decisions in J & K Public Service Commission Vs. Dr. Naminder Mohan & Othres, AIR 1994 SC 1808 and R C Samanta & Others Vs. UOI & Others, JT 1993 (3) SC 418 also support the same view.

In view of the law laid down by the Apex Court as stated above the applicants' case does not have a legal basis. In the facts and circumstances of the case the only direction that can be given at the stage is that the respondents shall consider re-engaging the applicant only as and when some work is available in preference to juniors/ freshers only in terms of the scheme and law laid down on the subject.

The OA is disposed of as aforesaid. No costs.


(S.P. BISWAS)
MEMBER (A)

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