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CAB/

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 274/96
T.A. No.

199

DATE OF DECISION 23.12.1996

Sh. Parmod Kumar & Ors.	Petitioner
Shri R.L. Sehti	Advocate for the Petitioner(s)
Versus Union of India and ors.	Respondent
Shri M.M. Sudan.	Advocate for the Respondent

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The Hon'ble Mrs Lakshmi Swaminathan, Member(J)

The Hon'ble Mr.

1. To be referred to the Reporter or not? *yes*
2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

Lakshmi S.
(Smt. Lakshmi Swaminathan)
Member (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A. No. 274/96

Date of decision 23.12.1996

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

1. Sh. Parmod Kumar
s/o Sh. Nand Lal
R/o D-167, Mansarovar Garden, N/Delhi.
2. Shri Anil
s/o Sh. Ram Kishan,
R/o 69/872, Panchkuyian Road,
New Delhi.
3. Sh. Tayub Khan
s/o Sh. Ayub Khan
R/o M-209, Sewa Nagar, New Delhi.
4. Sh. Ramesh Chander
s/o Sh. Same Singh
R/o 8/289, East Gokulpuri,
Harijan Basti, Loni Road, N/Delhi.
5. Sh. Mohian Singh
s/o Sh. Inder Singh
D-35/1, Moti Bagh, New Delhi.
6. Sh. Sunil Kumar
s/o Sh. Ram Phool,
A-170, Minto Road, New Delhi.

..... Applicants

(By Advocate Shri R.L. Sethi)

Vs.

Union of India, through
the Secretary,
Ministry of Human Resources Development
Department of Women Child Development,
'A' Wing, Shastri Bhawan, N/Delhi-7

..... Respondents

(By Advocate Shri M.M. Sudan)

O R D E R (ORAL)

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

The applicants who are working as casual workers with the respondents are aggrieved by the order dated 8.1.96 in which it has been stated that there is no work for casual workers and their services had ended ^{on 31.12.1995} ~~upto~~ 31.12.1995.

2. The applicants had been engaged as 'Waterman' on daily wage basis by the order dated 28.4.95 w.e.f. 1.5.1995. By the subsequent O.M. dated 31.7.95 services were extended w.e.f. 1.8.95 to 30.9.95, followed by the order dated 29.9.95

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u.e.f. 3.10.95 to 31.12.1995 (nn. A.2 - Ann. A.4). Therefore, Shri Sethi, learned counsel for the applicants submit that in toto the applicants have put in 253 days of service between the period of 1.5.95 to 31.12.1995.

3. This OA was filed on 2.2.96 and in the interim order dated 5.2.96, the Tribunal had directed that if the respondents are going to engage any freshers/new recruits for the existing /future vacancies they will give preference to these applicants. Later the applicants had filed CP 51/96 in the OA when the respondents had ~~in fact~~ engaged certain other persons. The CP. was finally disposed of by order dated 8.8.96 in which the explanation rendered by the respondents was accepted that it was due to communication gap in the case but with a direction to pay the applicants wages for the period commencing from February 7, 1996 to March, 31, 1996. The applicants have since been paid this amount in accordance with the directions.

4. The main contention of the learned counsel for the applicants is that the impugned order dated 8.1.96 is given retrospective effect which is against the law. Therefore, he submits that the applicants have not been paid for their work from 1.1.96 to 7.1.1996, which has been denied by the respondents counsel. Shri Sethi, learned counsel has also submitted that the applicants are entitled for grant of temporary status and regularisation in accordance with the relevant scheme- Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993. (herein referred the scheme).

5. Respondents have filed their reply and ^I have also heard Shri Sudan, learned counsel ¹⁸ ~~for the respondents~~. The respondents have submitted that the granting of temporary status and regularisation of the services of the casual workers/applicants can be done only in accordance with the aforesaid Scheme. They have also submitted that the applicants were terminated from

service with effect from 31.12.1995 as seen from the appointment order dated 28.4.95 followed by OM dated 31.7.95 and 21.9.95 (Annexure A-2 & A-4), Shri Sudan, learned counsel has submitted that particulars in these orders have in fact show that the applicants were engaged only upto 31.12.1995 and as they did not continue to work thereafter they are not entitled for any wages.

6. I have carefully considered the facts and circumstances of the case as well as pleadings and submissions made by the learned counsel for both the parties.

7. Taking into account the aforesaid orders at Annexures A-2 and A-4, it is seen that the applicants were engaged as waterman on daily wages basis with effect from 1.5.95 to 31.12.1995. The applicants have not placed any documents on record that they have actually worked beyond the period of 31.12.95 to 7.1.1996. The relevant portion of the impugned order reads as follows:

"I am directed to say that at present, there is no work for casual workers in the Department. Your services, which were upto 31.12.1995 are no more required beyond 31.12.1995"

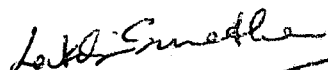
The above impugned order clearly states that since there is no work for casual workers, the services of the applicants were not required beyond 31.12.1995. This order read with the appointment orders referred to above shows that the applicants have not been engaged as casual labourers beyond the period of 31.12.1995. In the facts and circumstances of the case, therefore, the plea for payment of wages for the period from 1.1.96 to 8.1.1996 is rejected.

8. In the light of the above, the relief prayed for in para 8(i) is also rejected.

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9. As regards the claim of the applicants for grant of temporary status and regularisation in terms of the aforesaid Scheme, the respondents shall communicate the decision to the applicants within a period of two months from the date of receipt of a copy of this order. Further, if the respondents have work of a casual nature and intend engaging casual workers, then they shall also consider the claims of the applicants and give them preference to freshers and outsiders in accordance with the Scheme.

10. In the result, this OA is partly allowed as above.
No order as to costs.


(Smt. Lakshmi Swaminathan)
Member(J)

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