

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O.A.No. 303/96

New Delhi: this the 2nd day of April, 1997.

HON'BLE M.R.S.R.ADIGE, MEMBER(A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER(J).

Kshma Nath Pandey,
S/o Sh. Amar Nath Pandey,
Watchman (Chowkidar),
Casual Labour,
Plant Quarantine & Fumigation Station,
Varanasi,

r/o
House No. C-6/156,
Lawrence Road,
Delhi - 110035

..... Applicant.

(By Advocate: Shri R.K. Relan).

Versus

Union of India
through

1. The Secretary,
Govt. of India,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi.
2. Joint Director (PP),
Govt. of India,
Ministry of Agriculture
(Deptt. of Agri. & Co-operation)
Plant Quarantine & Fumigation Station,
IGI Airport, Terminal-I,
New Delhi.
3. The Officer Incharge,
Govt. of India Plant,
Quarantine & Fumigation,
Babatpur Airport,
Varanasi (UP).
4. Plant Protection Adviser
to the Govt. of India Directorate of
Plant Protection Quarantine & Storage,
Faridabad. Respondents.

(By Advocate: Shri M.K. Gupta).

JUDGMENT

BY HON'BLE M.R.S.R.ADIGE, MEMBER(A).

Applicant impugns respondents order dated
31.1.96 (Annexure-A1) dispensing with his services

A

and prays for absorption and regularisation as Chowkidar.

2. His case is that he was appointed as a casual labourer vide order dated 19.5.94 (Annexure-A2) and initially posted at IGI Airport, New Delhi in the Plant Quarantine & Fumigation Station under Agri. Ministry and was subsequently posted to work as Night Watchman (Chowkidar) there. Later by order dated 30.5.94 (Annexure-A3) he was deputed to attend duty as Night Watchman (Chowkidar) at the Fumigation Station Varanasi. He states that he continued to work for over 21 months to the entire satisfaction of his superiors until suddenly and abruptly without any notice his services were disengaged vide impugned orders dated 31.1.96. Applicant contends that he had acquired temporary status and was entitled to be considered for regularisation as a Group D employee in terms of Govt. instruction and various Court rulings, but instead of that, his services have been abruptly, and illegally terminated.

3. Respondents in their reply challenge the OA. They contend that applicant was engaged vide order dated 19.5.94 purely as a Casual Labourer to attend to work of a casual nature and deny that he was ever posted to work as a Watchman (Chowkidar). They admit that he worked up to 31.1.96 after which he was disengaged.

4. We have heard applicant's counsel Shri R.K. Ralan and Respondents' counsel Shri M.K. Gupta. We have also perused the materials on record and given the matter our careful consideration.

5. Admittedly applicant was appointed as a Casual Labourer vide order dated 19.5.95 and worked continuously upto 31.1.96. Applicant thus was entitled to the

13

benefits under the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993 (Annexure-I/1), including 1 months' prior notice in writing before his services were dispensed with and wages for the number of days in that notice, period for which he was actually engaged in work. It follows therefore that applicant is entitled to 1 months' wages in lieu of notice which was not issued to him.

6. Applicant on the date of his disengagement i.e. 31.1.96 was a Casual Labourer who had acquired temporary status. There is nothing to indicate that he was disengaged because his work and conduct was unsatisfactory, or for any such reason. Under the circumstance, subject to availability of work respondents should consider re-engaging the applicant as a Casual Labourer in preference to outsiders and those with overall lesser length of past service.

7. Applicant has strongly contended that during his engagement as a Casual Labourer he continued to perform regular duties as Watchman (Chowkidar) in support of his claim for regularisation, although this contention has been denied by respondents. Applicant has also furnished a list of posts which he claims are vacant against which he prays for absorption, although respondents deny the availability of any vacancy at present and also contend that applicant being overaged and being initially engaged only as a Casual worker to discharge work of a casual nature, is not eligible for regularisation. Appointment against regular posts is consequent upon availability of vacancies and the claimant being eligible for regular appointment in

A

terms of the rules/ instructions governing appointment to that post. Hence applicant can be considered for regularisation, only if a vacancy is available and he is found eligible in terms of the rules/ instructions governing appointment to that post.

8. In the result, this OA is disposed of with the following directions:

- i) Respondents will pass orders in regard to (i) grant of temporary status to applicant in terms of Casual Labourer (Grant of Temporary Status & Regularisation) Scheme, 1993 and (ii) grant of 1 month's salary in lieu of one month's prior notice in writing before they disengaged applicant w.e.f. 31.1.96. These orders should be passed within 2 months from the date of receipt of a copy of this judgment.
- ii) Subject to availability of work respondents will consider re-engaging applicant as a casual labourer with temporary status in preference to outsiders and those with overall lesser length of past service.
- iii). Thereafter subject to (a) availability of vacancies and (ii) applicant's eligibility, respondents will consider regularising applicant strictly in turn and in accordance with his seniority.

9. This OA is disposed of in terms of paragraph 8 above. No costs.

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)

S.R. Adige
(S.R. ADIGE)
MEMBER(A).