

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

O.A.No.119/96

New Delhi the 8th day of October, 1999.

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN  
HON'BLE SHRI S.P.BISWAS, MEMBER(A)

Hari Shanker son of Shri Baboo Lal,  
resident of Gali Gullo ji,  
Mahabeer Ganj, Aligarh, U.P.

..Applicant

(Shri A.K. Bhardwaj for the applicant)

1. Union of India,  
Through the Secretary,  
Ministry of Industry,  
Udyog Bhawan, New Delhi.
2. The Director,  
Small Scale Industries Service Institute,  
Agra.
3. The Asstt.Director,  
Small Scale Industries & Service Institute,  
Agra, U.P.

O R D E R (ORAL)

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

The applicant before us was initially engaged as a daily rated Machinist (Skilled Worker) under the respondents since 4.5.1973. He seeks reliefs in terms of issuance of directions to the respondents to have his services regularised against a permanent post on the strength of the fact that he continues to work with the respondents continuously for more than the last two decades.

2. A brief description of the background facts would bring out the legal issues involved in applicant's case. After being disengaged by the respondents, the applicant agitated his wrong termination at the forum of Central

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Govt. Industrial Tribunal. The said Tribunal had issued an award in favour of the applicant. The Union of India thereafter had filed a case O.A. 1200/91 before this Tribunal challenging the Award. The Tribunal in its order dated 2.8.91 dismissed the Original Application on the ground of delay. However, since the Award was in favour of the applicant, he was reengaged as a casual labourer by granting continuity of service with retrospective effect. The applicant thereafter continued to serve the respondents without any break.

3. As regards the applicant's plea for regularisation, it is well-settled in law that regularisation can be made pursuant to a scheme or an order in that behalf against a regular post. The applicant is continuing in the post almost for the last 26 years and under these circumstances, it can be only presumed that the job the applicant is doing is of perennial nature and the respondents could consider to create a permanent post for carrying out jobs now being managed by the applicant. It is also well-settled law that services of an ad-hoc official cannot be dispensed with by his juniors appointed on ad-hoc basis. Therefore, the applicant has a case for regularisation against a post when the regular vacancy arises.

4. The respondents in their reply statement have submitted that "as and when a regular post become available, the applicant will be regularised". It is, therefore, evident that the applicant is continuing and has not been regularised in the absence of a regular post.

5. In the background of the fact that the applicant has been continuing for such a long period, we dispose of this application with a direction to the respondents to initiate the necessary actions as per rules to have the services of the applicant regularised against a permanent post, as and when the same is available. No costs.

S.P. BISWAS  
MEMBER (A)

A.V. HARIDASAN  
VICE CHAIRMAN

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