

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
HON. SHRI R.K. AHOOJA, MEMBER (A)

NEW DELHI, THIS 4TH DAY OF SEPTEMBER 1997.

OA NO.1073/1997

1. Lala Ram
S/o Sh. Mukta Prasad
R/o L-476 Sanjay Nagar
Sector 23, Ghaziabad
U.P.
2. Dharamender
S/o Vijay Kumar
R/o (as in 1. above)
3. Kanhiya Lal
S/o Sh. Badri Rajbhan
R/o 79 Raj Kunj
Raj Nagar
Ghaziabad, U.P.APPLICANTS

(By Advocate - Shri S.K. Gupta)

versus

1. The Chief Commissioner
Income Tax Department
Aay Kar Bhawan, Civil Lines
Kanpur
2. The Assistant Commissioner
Income Tax Department
Aay Kar Bhawan (H.Q.)
Meerut
3. The Deputy Commissioner
Income Tax Department
Ghaziabad, U.P.
4. Secretary
Ministry of Finance
North Block
New Delhi ..RESPONDENTS

(By Advocate - Shri V.P. Uppal)

ORDER

The applicants are aggrieved by the order of discharge from employment w.e.f. 5.3.1996, 14.5.1996 and 23.4.1996 in respect of applicants No.1, 2 and 3 respectively. They had obtained employment on casual basis with respondent No.3. On their services being terminated, the applicants had approached this Tribunal in OA No.607/1996, which was disposed of on 4.11.1996

with a direction to the applicants to file a representation, which the respondents were directed to dispose of within two months in accordance with law by means of a detailed, speaking and reasoned order. The Tribunal also observed that if any grievance still survived thereafter, it will be open to the applicants to agitate the same through appropriate original proceedings in accordance with law. The Deputy Commissioner of Income Tax, Ghaziabad, vide impugned letter (A-1) dated 17.4.1997 disposed of the representation stating that the Department does not have any work at present and is not employing anybody as casual labour after discharging them and further that as and when there is work and it is decided to re-employ somebody, the application submitted by the applicants herein will be duly considered on merits. It is this rejection of the representation which has led to the present round of litigation. The applicants assail the action of respondent No.3 primarily on two grounds. Firstly, they claim that they had put in the requisite period of service to be covered by the scheme devised by the DOP&T dated 10th October 1993 (A-7); they were thus entitled to the grant of temporary status. Secondly, the applicants allege that while their services have been dispensed with, the respondents have retained their juniors who are still working with them.

2. The respondents submit that on the date of the order of the Tribunal in OA No.607/1996, the applicants were no longer working with them. Their representation had been disposed of in accordance with the directions of the Tribunal by a detailed speaking order. The respondents also deny the claim of the applicants for conferment of temporary status since they do not fulfill the conditions of the aforesaid scheme (A-7). According to the respondents, temporary status is to be conferred

only on those who were working on 1.9.1993 and had put in the requisite period of service. According to the respondents, neither of the applicants on that date had the requisite continuous service of one year to their credit.

3. It has been strenuously urged before me by Shri S.K. Gupta, ld. counsel for the applicants, that the respondents are not right in claiming that October 1993 was the cut off date. I agree with him that this matter has been settled by the judgement of this Tribunal in OA No.1696/1995 KIRAN KISHORE VS. UOI. In that, the Tribunal had concluded that the scheme is to be applied to persons who fulfill the specified eligibility criteria of length of service at any time even after 1.9.1993. In the present O.A., the applicants would thus be entitled to the temporary status if they had rendered continuous service of one year, which means that they must have been engaged for a period of at least 240 days (206 days in case of offices observing 5 days' week). The respondents have not denied the claim of the applicants regarding the period of work they have put in with respondent No.3. The O.A. is therefore allowed and disposed of with the following directions:-

- (i) The impugned orders of termination are quashed;
- (ii) The applicants will be entitled to the payment of their back wages;
- (iii) The applicants will be deemed to have been granted temporary status in accordance with the DOP&T scheme of 10th October 1993 (A-7) from the date they have rendered one year's continuous service in accordance with para 4(l) of the scheme;

(iv) The applicants will be entitled for consideration for regularisation in accordance with the aforesaid scheme;

(v) The respondents will be free to dispense with the services of the applicants in case no work is available and in accordance with law, after giving them one month's notice. However, in doing so, they will follow the principle of last come first go.

The O.A. is disposed of accordingly. no costs.

R. K. Ahuja

(R. K. AHOOJA)

MEMBER (A)

/avi/