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Central Administrative Tribunal
Principal Bench

O.A.No.1418/97

M.A.No.1463/97

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 2nd day of March, 1998

1. Tej Pal Singh
s/o Shri Ghasita Singh
r/o Village and Post Office Tharad
District Muzaffarnagar, UP.
2. Dharam Pal
s/o Shri Ram Prasad
r/o Kasba Purana Moh. Peshla
Dist. Muzaffarnagar, UP. ... Applicants

(By Mrs. Rani Chhabra, Advocate)

Vs.

1. Union of India through
its Secretart
Department of Telecommunication
Sanchar Bhavan
New Delhi.
2. Chief General Manager (West)
Dehradun.
3. Telecom District Manager
Muzaffarnagar.
4. Divisional Engineer (Telecom)
Shamli.
5. Sub Divisional Engineer (Indoor)
Shamli.
6. Sub Divisional Engineer
Bhudana.
7. Sub Divisional Officer (Telegraph)
Barot, Meerut. ... Respondents

(By Shri K.R.Sachdeva, Advocate)

O R D E R (Oral)

Applicant NO.1 and Applicant No.2 claim that they were engaged, after being sponsored by the Employment Exchange, as Casual Labourers in 1986, and December, 1985 respectively and had been serving continuously with the respondent's department upto February, 1989. After their services were terminated, on the basis of oral orders, they had approached this Tribunal in O.A.No.2351/91

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claiming that they were entitled to the benefits of the Scheme framed by the Department in respect of conferment of temporary status as Casual Labour. The OA was disposed of by an order dated 27.4.1992. The operative part of the OA reads as follows:

"After hearing both sides, the application is disposed of with the direction to the respondents to consider the question of regularisation of the applicants in suitable Group 'D' posts, in accordance with the scheme prepared by them pursuant to the Hon'ble Supreme Court's decision in Daily Rated Casual Labourers Vs. Union of India & Others, 1988 (1) SCC 122. The applicants should also be continued as Casual Labourers till they are regularised in accordance with the Scheme prepared by them."

2. The applicants state that consequent to the above directions, they were re-engaged on 26.5.1992 and they were also conferred temporary status w.e.f. 23.5.1994. The applicants claim that they were entitled to grant of temporary status w.e.f. 1.10.1989 instead of 23.5.1994. Further they submit that the department has since issued a Circular whereby such of the casual Majdoors who have rendered ^{ten}~~seven~~ years service are to be regularised and made regular Majdoors.

3. The respondents have raised a preliminary objection regarding limitation as the order of temporary status was passed way back in 1994 while the applicants have approached this Tribunal only in 1997. I have heard the learned counsel for the applicant on this point. She argues that the responsibility of conferment of temporary status was on the respondents under the Scheme which was formulated on the directions of the Hon'ble Supreme Court. The fact, however, remains that after the order of conferment of temporary status was passed in 1994, the applicants did not agitate their claim for another three years and approached for relief before the Tribunal only

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in July, 1997. Having acquired in the order of the respondents, their plea is now squarely barred by limitation and requires no further consideration.

4. The learned counsel for the applicants also points out that the applicants would have completed 10 years requisite service, if they had not been illegally kept out of employment for certain periods on account of which they were also compelled to approach this Tribunal, as mentioned earlier. The applicants have come before this Tribunal in the present OA claiming the benefit of the Scheme formulated by the respondents for casual labour. The prayer made by the applicants in the earlier OA was that they should be treated as in service for the period after their services had been terminated. It is clear that they had an opportunity to agitate the matter but did not do so. They cannot now on the principle of constructive res judicate agitate this question in another OA.

5. In view of the fact that the prayer of the applicants is barred both by limitation and res judicate, no interference is called for. The OA is accordingly dismissed. No costs.

R.K. Ahooja
(R.K. Ahooja)
Member(A)

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