

Central Administrative Tribunal, Principal Bench

O.A.No.1660/97

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

New Delhi, this the 19th day of September, 1997

Shri Keshav Datt
s/o Shri Narayan Datt
r/o C/o Sh. Kanti Prasad
278, Katra Peran
Tilak Bazar
Delhi - 110 006.

... Applicant

(By Shri N.L.Bareja, Advocate)

Vs.

1. Union of India through
Secretary
Department of Rural Development
M/o Rural Areas & Employment
Govt. of India
Krishi Bhawan
New Delhi - 110 001.

2. The Under Secretary (G)
to The Govt. of India
Department of Rural Development
Krishi Bhawan
New Delhi - 110 001.

... Respondents

(By Shri Rajiv Bansal, Advocate)

O R D E R (Oral)

The applicant ~~who~~ worked with the respondents as Casual Labour w.e.f. 28.2.1996 upto 16.7.1997, i.e., for a total period of 506 days. He is aggrieved by his disengagement on the basis of verbal orders and alleges that the respondents have engaged four persons junior to him w.e.f. 5.8.1997. He has now come before the Tribunal seeking directions to the respondents to take the applicant back in service w.e.f. 17.7.1997 and confer him the temporary status in accordance with the scheme formulated for this purpose by the respondents and to pass such other orders as may be fit and necessary.

2. The respondents in reply admit that the applicant was engaged for the period claimed by him. They however state that he cannot be given the benefit of the OM dated 10.9.1993 issued

Sh

5

by the Ministry of Personnel, Public Grievance and Pensions (Department of Personnel & Training) (Annexure R-2) since the same was applicable to such casual labourers who were in employment on 1.9.1993. The respondents state that since the applicant was engaged only on 28.2.1996, he cannot be given the benefit of that Scheme. They further state that four persons mentioned by the applicant are no longer in service as on 17.9.1997 (when the reply was filed) and further state that there was no further work of casual nature available for re-engagement of the applicant.

3. I have heard the counsel. The learned counsel for the applicant points out that this Tribunal in number of judgments has already been held that the casual labourers are entitled to the benefit of the said Scheme, R-2 irrespective of whether they were in employment on 1.9.1993 or not. I agree with the learned counsel. This is a settled position. This Tribunal has in various orders including OA No.1735/96, OA No.2155/96 dated 18.10.1996 and 2.7.1997 respectively reiterated this finding. Accordingly, I hold that the applicant was entitled to the benefit of the Scheme for grant of temporary status.

4. The learned counsel for the respondents raises two points. Firstly, he submits that they have no further work of casual nature against which the applicant could be re-engaged. Secondly, he submits that they had sought the names of candidates from the Employment Exchange but the name of the applicant did not figure amongst those, therefore, they were compelled to engage four other persons who were sponsored from the Employment Exchange in accordance with the directions of the DP&T. As far as the first point is concerned the respondents cannot, indeed be compelled to engage the applicant in case they have no work of casual nature available. However, as regards the second point I

Du


6

find no merit in the objection because the applicant admittedly on initial appointment was sponsored by the Employment Exchange and it is difficult to understand as to how the need for getting his name again from the Employment Exchange arose.

5. In the facts and circumstances of the case, I dispose of the application with the following directions:

- A) The respondents will pay one month's wages to the applicant in lieu of the notice period within 2 months from the date of receipt of a copy of this Judgment.
- B) Subject to availability of work respondents will consider re-engaging the applicant in preference to outsiders and those with overall lesser length of past service.
- C) In the event the applicant is re-engaged, the respondents will pass necessary orders regarding the grant of temporary status to the applicant after taking into account the past service put in by him, which will be effective from the date he completed the requisite period of qualifying service. These orders must be passed within one month of his re-engagement.

OA is disposed of as above. No costs.


(R.K. AHOOJA)
MEMBER (A)

/rao/