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Central Administrative Tribunal
Principal Bench

O.A.No.1977/97

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

New Delhi, this the 14th day of October, 1997

Shri Balwant Singh Gosain
s/o Shri Varinder Singh
r/o 713, Aliganj, Lodhi Road
New Delhi - 110 003. ... Applicant

(By Shri G.S.Lobana, Advocate)

Vs.

1. Union of India through
Secretary
Department of Fertilizer
Ministry of Chemicals & Fertilizer
Shastri Bhawan
New Delhi - 110 001.

2. Shri Sayoraj Singh
(Daily Wage Worker)
C/o Shri S.L.Bajaj
Under Secretary
Ministry of Chemicals & Fertilizers
Department of Fertilizer
Shastri Bhawan
New Delhi - 110 001. ... Respondents

(By Shri Harvinder Singh, proxy of Mrs. P.K.Gupta, Advocate)
for official respondent
None for the private Respondent.

O R D E R (Oral)

The applicant says that he was engaged by the respondents, after his name was sponsored by the Employment Exchange, from 7.2.1996 to 6.8.1996 and he had only to serve for another 28 days to complete 206 days to get temporary status under the Scheme devised by the Department of Personnel & Training. His grievance is that though the work is available with the respondents they did not call him on the basis of his seniority but called and engaged fresh casual workers from Employment Exchange in September, 1996 and kept them engaged upto 6.12.1996. Therefore, he had filed OA No.2250/96 which was disposed of by this Tribunal by order dated 13.11.1996 wherein a direction was given to first respondent to pass a speaking order

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which was passed vide letter dated 9.12.1996, Annexure A1. Being aggrieved by this order, the applicant has again come before this Tribunal.

2. I have heard the learned counsel for the applicant. He submits that the impugned order gives no explanation as to why the applicant was ignored by the respondents when work was available and a representation of the applicant ~~was~~ pending for his re-engagement. He argues that if applicant had been re-engaged, he would have completed the remaining 28 days for grant of temporary status as his juniors ^{only} kept in service for 89 days. The learned proxy counsel for the official respondents submits that it is a policy of the respondents to give an opportunity to the maximum number of people for casual labour and therefore, the requisition was sent to the Employment Exchange for fresh people. No reply has been filed on behalf of private respondent nor any one has appeared on his behalf. However, the learned proxy counsel for the official respondents states that the private respondent was re-engaged on the basis of a direction given by this Tribunal in OA No.1178/97.

3. I have considered the matter. The arguments advanced by the learned counsel for the applicant are that fresh people have been engaged every time, which is contrary to the letter and spirit of the Scheme for grant of temporary status and regularisation ^{of} casual labour. He also cites the case of State of Haryana & Others Vs. Piara Singh & Others, AIR 1992 SC 2130 wherein the Supreme Court has held that an ad hoc or temporary employee should not be replaced by another ad hoc or temporary employee; he must be replaced only by a regularly selected employee.

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4. In view of the Scheme for grant of temporary status to casual labour, a casual labour has to put in a minimum service for ~~gaining~~ the benefit thereof. Any attempt to replace one casual labour by another there~~for~~ ~~for~~ tentamounts to circumventing the provisions of the Scheme and to deny the first casual labour the benefits accrued from the grant of temporary status. Necessarily, there~~for~~ ~~for~~ a casual labour has a right to be considered for re-engagement when work is available in relation to freshers and those who have lesser period of casual service.

5. In view of the above discussion, this OA is disposed of with a direction that when work is next available with the respondents, they should give due consideration to the applicant for re-engagment in preference to persons with lesser casual service and outsiders. The respondents will also consider him for grant of temporary status and also consider him for regularisation in accordance with the Scheme of Department of Personnel & Training's OM No.51016/2/90-Estt.(C), dated 10.9.1993.

The OA is disposed of as above. No costs.


(R.K. AHOOJA)
MEMBER(A)

/rao/