

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1986 of 1997
M.A.No.2243/2000

New Delhi, this the 22nd day of February, 2001

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Hari Sadan
S/o Shri Ananda Halder
R/o Qr.No.833
Sector-II, R.K.Puram
New Delhi-22

-APPLICANT

(By Advocate: Shri S.K.Rungta)

Versus

Union of India through:

The Secretary
Ministry of Food
Krishi Bhawan
New Delhi

-RESPONDENT

(By Advocate: Shri S.M.Arif)

O R D E R(ORAL)

By Hon'ble Mr.Kuldip Singh, Member(Judl)

M.A.2243/2000 has been filed by the applicant seeking restoration of O.A. Shri Arif, learned counsel for respondents strongly objects to this M.A. on the ground that it has been filed after the lapse of statutory time limit of one month. He submitted that O.A.1986/97 was dismissed for default on 22.5.2000 while M.A.2243/2000 was filed in September, 2000. However, learned counsel for the applicant submitted that though the O.A. was dismissed for default on 22.5.2000, but the applicant received the copy of judgement only in the month of July, 2000. Thereafter, he immediately contacted his counsel and the counsel prepared the M.A. for restoration of O.A. in July itself, however, since the file of the applicant's case was misplaced somewhere, the M.A. could not be filed within time. Shri Rungta further submitted that applicant should not be made to

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suffer because of mistake on the part of his counsel..

2. I have gone through the M.A. for restoration of O.A. It appears to have been prepared in the month of July,2000, therefore, accepting the contentions of learned counsel for the applicant, I allow M.A.2243/2000. I have also heard the parties on merits of the OA.

3. Case of the applicant is that he worked under respondents as casual labour for 190 days in the year 1990 and for 35 days in 1991. Thereafter his services had been terminated from March,1996. Applicant claims that he has worked under respondents for requisite number of days which entitled him for conferment of temporary status and regularisation.

4. Respondents are contesting the O.A. They have pleaded that applicant had worked only for 135 days in the year 1990 and has not served for the requisite period as per Casual Labourers (Grant of Temporary Status and Regularisation) Scheme,1993, therefore, he is not entitled for conferment of temporary status and regularisation.

5. Learned counsel for the applicant submitted that the type of work which the applicant had been doing, is still available with the respondents and they have appointed two persons namely Shri Govind Ballabh and Shri Jitender Mehto on regular basis ignoring the preferential claim of the applicant on such appointment, as such the applicant is entitled to be appointed.

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6.. In reply to this, Shri Arif submitted that as far direct recruitment to the post of peon is concerned, different procedure is followed for that and only those candidates who are sponsored by the employment exchange, are considered for direct recruitment. As on that date, applicant was not in service and since his name was also not sponsored by the employment exchange, he was not considered for appointment.

7.. Shri Arif further submitted that as for consideration on the basis of service rendered by the applicant on daily wages is concerned, Govt. of India Scheme dated 10.9.93 has nothing to do with the regular appointment of Peons through employment exchange. The applicant could not be considered for conferment of temporary status or regularisation as he did not complete the service for requisite number of days as per Govt. of India Scheme 10.9.93.

8.. Considering the rival contentions of the parties, I am of the opinion that Casual Labourers (Grant of Temporary Status and Regularisation) Scheme dated 10.9.93 is quite exhaustive and prescribes the procedure as to how temporary status is to be conferred on a daily wager and how he/she is to be regularised.

9.. As the applicant had not rendered service on daily wages for requisite number of days, therefore, he was not entitled for conferment of temporary status and regularisation. As for direct recruitment to the post of peon is concerned, the applicant at that time was neither

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on the rolls of respondents on daily wages nor his name was sponsored by the employment exchange, therefore, he could not be considered for conferment of temporary status and thereafter for regularisation.

10. Under the circumstances, I find that there is no merit in this O.A., which is accordingly dismissed. However this order will not preclude the department to consider the applicant for re-engagement, if there is work available. No costs.


(KULDIP SINGH)
MEMBER (JUDL)

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