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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.2154 of 1997

New Delhi, this the 13th day of February, 1998

Hon'ble Mr. N. Sahu, Member (Admnv)

1. Gulshan S/o Late Shri Jatan Prakash,
r/o Village Harsaunu, Irrigation
Department Colony, P.O.Dasna, Dist.
Ghaziabad, U.P.
2. Shri Narendra Kumar, S/o Shri Mangat
Ram, R/o House No.639, Kamla Nehru
Nagar, Ghaziabad, UP.
3. Smt.Kaushalya Devi, W/o late Shri
Rajpal Singh, R/o House No.222,
Indira Colony, Gali No.4, Sahibabad,
Dist. Ghaziabad, UP.
4. Shri Hemant Kumar S/o Shri Samaru
Ram, R/o Village, Baronal Farm, Post
Bangoli, Raipur, Madhya Pradesh.
Prsent Address - 959, Kamla Nehru
Nagar, Ghaziabad, UP.
5. Shri Adesh Kumar Parcha, S/o Shri
Prem Chand Parcha, R/o Village
Ashoda, Post Hapur, Dist. Ghaziabad,
UP.
6. Shri Manoj Kumar, S/o Mangal Das, R/o
Village Shahapur Chaudhary, Post Garh
Mukteshwar Dist. Ghaziabad, UP.
7. Shri Mool Chand Pal, S/o Shri
Dalchand Pal, R/o Village Harsaunt,
Irrigation Department Colony, Post
Dasna, Dist. Ghaziabad, UP.
8. Shri Gajendra Sharma, S/o Late Shri
Jai Bhagwan Sharma, R/o Nadar Ganj,
Near Junior High School Wali Gali,
Tehsil Compound Dadri, District
Gautam Budh Nagar, UP.
9. Shri Mahendra Kumar, S/o Shri Ram
Lal, R/o House No. F-46, New
Usmanpur, Gali No.2, IInd Pusta,
Shahdara, Delhi - 110 093.

- APPLICANTS

(By Advocate Mrs.Rani Chhabra)

Versus

1. Union of India through Ministry of
Finance, Departament of Revenue,
Central Board of Excise and Customs,
New Delhi.
 2. The Commissioner I, Customs and
Central Excise, Northern UP
Commissionerate, Meerut.
- [Handwritten signature]*

3. The Commissioner II (Appeal), Customs and Central Excise, Region I, Ghaziabad.
4. Administrative Officer/ Assistant Commissioner, Customs and Central Excise, Region I, Ghaziabad.
5. Additional Commissioner, Customs and Central Excise, Ghaziabad.
6. Administrative Officer/ Assistant Commissioner, Customs and Central Excise III. Ghaziabad.
7. Administrative Officer/Assistant Commissioner, Customs and Central Excise IV, Ghaziabad.
8. Superintendent (Appeals) Customs and Central Excise, Ghaziabad. -RESPONDENTS

(Departmental representative Shri N.S.Rawat present for respondents)

ORDER (O R A L)

By Mr. N. Sahu, Member (Admnv) -

The applicants in this case are aggrieved because the respondents have not conferred on them temporary status although they have continuously worked in the department as casual workers/Farash for six to seven years. The grievance as spelt out by the learned counsel for the applicants is that the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993" (hereinafter referred to as 'the Scheme') issued by the Department of Personnel & Training, was not complied with in the case of the applicants.

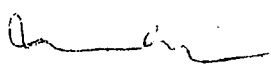
2. Applicants 1 to 9 were engaged from 16.5.1990, 30.7.1991, 6.4.1992, 1.4.1994, 30.11.1994, 28.11.1994, 1.1.1995, 23.8.1995 and 17.6.1996

[Signature]

respectively and they are working continuously ever since. Copies of the certificates of these applicants having worked have also been enclosed.

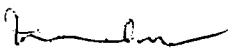
3. After notice, the respondents state that the casual labourers cannot be bestowed with temporary status who have not been engaged through Employment Exchange and that is the basic ground for not conferring on them the temporary status.

4. I am of the view that there is no justification for taking such a view. The earlier decision of the Hon'ble Supreme Court in the case of Union of India and others Vs. N.Hargopal & ors, JT 1987(2)SC 182 has been considered by their Lordships in the case of The Excise Superintendent, Malkapatnam, Krishna District, Andhra Pradesh Vs. K.B.N. Visweshwara Rao & Ors, JT 1996(9)SC 638. Their Lordships gave no doubt primacy to the source of Employment Exchange for sponsoring candidates strictly in accordance with seniority and reservation but they stated that, in addition, the department also should call for names by publication in Newspapers; display on notice boards; and announcement in Radio and Television. The idea is that equality of opportunity in the matter of employment should be made available to all eligible candidates. Restricting consideration to those candidates only who were sponsored from the Employment Exchange has been considered to be inadequate. The point is that the Hon'ble Supreme



Court has held that sponsoring by the Employment Exchange is not an exclusive condition precedent for engagement.

5. In the present case the respondents should have considered eligibility at the time of initial engagement. The facts show that ~~the~~ some of the applicants have been engaged way back from 1990-91. It does not lie in the mouth of the respondents to state, after taking their services for several years, they should not be considered eligible for conferment of temporary status and other benefits in terms of the Scheme, which is binding on the respondents on the ground of non-sponsoring by the Employment Exchange. At no time in the course of service of these applicants the respondents have conveyed to them that they should get themselves registered in the Employment Exchange or that their continuance depends on such sponsoring. It is both unfair and unjust to insist on this requirement when it came to conferment of temporary status. This is just a technical plea and has no substance. There is no such condition in the Scheme. The Scheme only states that if the applicants have rendered the service for a requisite number of days in one year, they shall be considered for grant of temporary status and certain privileges to be given to them as spelt out in clause 5 of the Scheme. I do not find any justification for not following the Scheme approved by the Ministry of Personnel in the case of the applicants.



6. The respondents do not challenge any averments made regarding (a) the tenure of service rendered by the applicants; and (b) about the satisfactory service rendered by them. Dismissing the claim of continuous service of years on the ground that they rendered service as daily wage earners and not as casual labourers violates the spirit of Hon'ble Supreme Court's decisions in the cases of Central Welfare Board & Ors Vs. Ms. Anjali Bepari & Ors, JT 1996 (8) SC 1, and Gaziabad Development Authority & Ors Vs. Sri Vikram Chaudhary and others, Vs., JT 1995(5) SC 636. The distinction between daily wage earner and casual labourer in substance and in principle is a distinction without a difference. If all the applicants have rendered satisfactory service, which is not denied, there is no justification for withholding temporary status.

7. I, therefore, direct the respondents to consider conferment of temporary status on the applicants in accordance with the Scheme within a period of four weeks from the date of receipt of a copy of this order. The Original Application is accordingly disposed of. No costs.

N. Sahu
(N. Sahu)
Member (Admnv)

rkv.