

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 249 of 1997

New Delhi, this the 17th day of February, 1998

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

Harikesh Meena
S/o Sh. Mahiiee Lal Meena
R/o 29, Meena Bagh
Opp. Vigyan Bhawan
New Delhi

...Applicant

(By Advocate : Sh.A.K. Bhardwaj)

Versus

Union of India: through

1. The Secretary
Govt. of India
Ministry of Civil Aviation
& Tourism,
(Principal Accounts Office)
Sardar Patel Bhawan
Parliament Street, New Delhi

2. The Financial Controller
Ministry of Civil Aviation
& Tourism
(Principal Accounts Office)
Sardar Patel Bhawan
Parliament Street, New Delhi

3. The Assistant Accounts Officer
(Admn.), Govt. of India
Ministry of Civil Aviation & Tourism
(Principal Accounts Office)
Sardar Patel Bhawan
Parliament Street
New Delhi

... Respondents

(By Advocate : Sh.R.P. Aggarwal)

ORDER

By Sh. N. Sahu, Member(A) -

In this OA the applicant seeks a direction to the respondents to reinstate him in services as Casual Labourer and confer on him temporary status in terms of OM dated 10.09.1993. He also requests for eventual absorption as a Group 'D' employee in the Ministry of Civil Aviation & Tourism. This grievance

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arose out of the following facts which are in a brief compass. The applicant, a scheduled caste, matriculate, was engaged as a Casual Labourer in the Principal Accounts Office of the Ministry of Civil Aviation & Tourism w.e.f. 29.05.1995 and continued thereafter with notional breaks. One Sh. Jagdish Prasad, was also engaged as a Casual Labourer in the same office after the engagement of the applicant. He claims to have completed 240 days in March 1996 and respondents dispensed with his services retaining his junior Sh. Jagdish Prasad.

2. After notice, the respondents stated that the Scheme of the Ministry of Personnel dated 10.09.1993 for grant of temporary status and regularisation was applicable only to those employees who were in employment on the date of issue and also he was engaged at least for 206 days in the case of offices observing 5 days a week during one full year. The respondents deny that the applicant ever worked for 240 days in the Principal Accounts Office. They stated that he was intermittently employed from 30.05.1995 to 26.08.1995 for 89 days and again for 28.09.1995 to 20.04.1996 for another 89 days. The engagement of the two juniors, namely, S/shri Moolchand and Jagdish has no connection with the disengagement of the applicant's service.

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3. According to the respondents those who had rendered continuous service of at least one year or engaged for a period of 240 days and who were in employment on the date of issue of OM i.e. 10.09.1993 are eligible for the benefits of that Scheme. The applicant completed 240 days not in a year nor was he in employment on 10.09.1993. The two other employees were engaged in other offices.

4. This Tribunal had held that the date of engagement as on the date of promulgation of the Scheme, namely, 10.09.1993 is not a mandatory condition for the grant of temporary status leading to eventual regularisation. Different departments may employ different people but the central controlling authority who keeps a register of all those employees shall consider their seniority and benefits under the Scheme in accordance with the said seniority. The respondents cannot say that because a junior is appointed by another satellite office his engagement and the applicant's termination are not interconnected but the basic condition for conferment of temporary status or other benefits of the Scheme is that he should have completed the prescribed number of days in a full year and both the conditions in the Scheme are very relevant. The certificate shows that the applicant was appointed as a daily wager on 29.05.1995. There is also another order which shows that he was engaged for a further period of 89 days. As the total reckoning does not add upto either 206 days or 240 days nor does it add upto one full year's service, the applicant is not entitled for

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consideration of temporary status. I would, however, direct that if the respondents are satisfied with the performance of the applicant, he should not be disengaged when his juniors are retained even after work is not available. In the conspectus of the facts, I would hold that the applicant should get priority in engagement whenever work is available in preference to juniors and outsiders. The earlier service rendered shall be aggregated with any future service. While considering any vacancy or engagement of casual labourer that is ultimately under the control of Respondent No.1, the entire department of Respondent No.1 shall be treated as a unit and for any vacancy anywhere, the claim of the applicant shall be given priority, if a disengaged senior Casual Labourer is not available. As stated above, this is so if the respondents are satisfied with the performance of his earlier service.

5. OA is disposed of as above. No costs.

Narashimha Sahu
(N. Sahu)
Member (A)

/Kant/