

(13)

Central Administrative Tribunal
Principal Bench

O.A.No.305/97

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

New Delhi, this the 29th day of September, 1997

1. Sh. Suraj Singh, s/o Sh. Prabha Singh,
r/o 64, Chiragh Delhi, New Delhi - 110 017.
2. Shri Sudesh Kumar, s/o Shri Banwari Lal
10/40, Trilok Puri, Delhi - 110 091.
3. Shri Satpal Singh, s/o Shri Ram Lal
V&PO Ghitorni(Balmiki Basti, New Delhi-110 030. - Applicants
(By Ms. Jasvinder Kaur, Advocate)

Vs.

1. Registrar
Customs, Excise, & Gold (Control) Appellate Tribunal
West Block No.2, R.K.Puram,
New Delhi.
2. Deputy Registrar(Admn.)
Customs, Excise, & Gold (Control) Appellate Tribunal
West Block No.2, R.K.Puram
New Delhi.
3. The Member(Admn.)
Customs, Excise, & Gold (Control) Appellate Tribunal
West Block No.2, R.K.Puram
New Delhi.
4. Secretary
Department of Personnel & Public Grievance
Nirman Bhavan
New Delhi.

... Respondents

(By Shri M.M.Sudan, Advocate)

O R D E R (Oral)

The applicants, three in number, state that they were sponsored by the Employment Exchange as Casual Labour and were engaged by the respondents without any break from 23.11.1994 till 30.4.1996. The applicants claim that having worked for more than 206 days in a year, they are entitled to the grant of temporary status as per the Scheme devised by the respondents and for consideration for regularisation. They are aggrieved that their services have been dispensed with on verbal orders. They now seek a direction to the respondents to consider them for regularisation in terms of Supreme Court's order in the case of

Dr

Surinder Singh Vs. Central Govt. & Others, AIR 1986 SC 2166.

The respondents in their reply state that the applicants were engaged for the work of temporary nature arisen due to the de-centralisation of special bench as per amendment in the Central Excise and Customs Act. The applicants were engaged on daily wage basis from time to time as per the requirement of the office. The Scheme to which the applicants refer is applicable only in respect of casual labour who were in position on the date of issue of the order of Scheme, i.e., 1.9.1993. Since the applicants were not engaged as Casual Labour with the respondents on that day they cannot be considered for the grant of temporary status.

2. I have heard the counsel on both sides. The learned counsel for the applicant submits that not only the applicants have been deprived of the benefits of the DoPT's Scheme for casual labourers, the respondents have now also called for fresh persons from the Employment Exchange for appointment as Group 'D' employees on regular basis overlooking the claim of the applicants. The learned counsel for the applicants further submits that various judgments of this Tribunal have laid down the principle that the Scheme of the DoPT applies to all casual labourers irrespective of whether they were in engagement on the date of issue of orders, i.e., 1.9.1993 or not. The learned counsel for the respondents in reply has raised three points. Firstly, as stated in their reply, he states that the Scheme is not applicable to the applicants. Secondly, he states that Employment Exchange has sponsored the names of candidates registered with them from 1990 and earlier and the case of all the applicants were not covered by the cut off date. Thirdly, the learned counsel for the respondents submits that the Civil Miscellaneous Petition No.6165/97 in Civil Writ Petition No.3150/97 has been filed in the High Court of Delhi against the

order of this Tribunal in OA No.138/97 wherein it was held that the date of 10.9.1993 was not material in respect of applicability of the DoPT Scheme and the High Court in its order dated 7.8.1997 had stayed the operation of this Tribunal's order. In view of this, it would not be proper to rely on the earlier judgments of this Tribunal till the High Court of Delhi finally decides the issue.

3. I have carefully considered the pleadings and contentions on both sides. The respondents have not denied that the applicants have worked for the periods claimed by them. Prima facie, therefore, they appear to be entitled to the benefit of the Scheme formulated by the DoPT and conveyed by its Memorandum dated 10.9.1993. The Tribunal has already held in various judgments (for example Shri Kiran Kishore Vs. Union of India & Others, OA No.1696/95) that the scheme is applicable in respect of casual labour even after the cut off date. The matter has been taken up in the High Court and there is no final decision in this case and the stay order cited by the learned counsel for the respondents, Shri M.M.Sudan is in the facts and circumstances of that case. I therefore, consider that the applicants are entitled to be considered for the grant of temporary status provided they fulfil all the other conditions laid down in the aforesaid orders of DoPT. Having been sponsored by the Employment Exchange and also having worked with the respondents, they are also entitled for consideration for regular posts which the respondents have decided to allocate for direct recruits. In view of this position, the OA is disposed of with the following directions:

A) The applicants will file a proper representation within a period of one month along with proof of their service

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with the respondents for the grant of temporary status and the same will be considered and disposed of by the respondents within two months thereafter with a reasoned and speaking order.

B) The respondents will consider the names of the applicants against the posts they propose to fill on regular basis along with other names sponsored by the Employment Exchange. They will also give due consideration to the fact that the applicants have already served with the respondents and are being considered for the grant of temporary status. In case any age relaxation is required this will also be given to the applicants to the extent of the services rendered by them with the respondents.

C) In case there is work available and the respondents propose to fill up any casual labour vacancy, they will consider the applicants in preference to their juniors and outsiders.

The OA is disposed of as above. No costs.

R.K.Ahooja
(R.K.AHOOJA)
MEMBER(A)

/rao/