

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 324 of 1997

New Delhi, this the 21st day of April, 1998

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

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Sh. Om Prakash Tiwari, S/O Sh. Ganga Prasad formerly working as Daily Wage Worker in the Staff Selection Commission at present residing at 989, Chand Mohalla, P.O. Gandhi Nagar, Delhi - 110 031.

--APPLICANT.

(By Advocate Sh. O P Khokha)

Versus

The Secretary, Staff Selection Commission, C.G.O. Complex, Lodhi Road, New Delhi 110 003.

--RESPONDENT.

(By Advocate -Sh. N S Mehta)

O R D E R

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

In this application, the applicant is aggrieved for not placing him at the appropriate place in the list of Daily Wage Workers proposed to be engaged. The impugned list is at page 18 of the OA. It states "Revised Panel/ List of Daily Wagers who are not eligible for regularisation". The name of the applicant occurs at Sr. No. 55. The admitted facts are that the applicant had worked in the Commission as a Casual Labourer for 51, 287, 189 and 182 days during the years 1986, 1987, 1988 and 1989 respectively. He claims that he worked for more number of days in 1988-89 than was admitted by the respondents. In compliance with the directions of the Tribunal dated 11.2.1992, in OA 1489/90, the respondents framed a scheme for daily wage workers under which only those who were in position as on the date of the scheme

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 were considered. They have also sponsored to other departments such of those casual labourers who could not be absorbed by the Commission. A panel of Daily Wage Workers was also prepared from which as and when need arose, the empanelled person could be re-engaged in accordance with his seniority. It is explained that as the applicant was not currently employed when the scheme was promulgated his name could not find place in the panel of Daily Wages Workers fit for employment although, his juniors ~~were~~ subsequently employed were considered as covered by the scheme. It appears that the respondents sent the name of the applicant to the Department of Supply but that department could not communicate to the applicant in his last known address. It is incorrect to exclude the applicant from the operation of the scheme simply because he was not engaged on the date of promulgation of the scheme. While rejecting the Review Petition filed against OA 1580/90, this Tribunal directed as under:-

"In OA 1489/90 and connected cases the direction was to prepare a fair scheme covering those who have worked for 240 days and more including broken period of service and it cannot be interpreted to mean that the directions of the Tribunal were confined only to those who were in position on the date of pronouncement of the order (11.2.1992) but also to others.

2. It is mentioned that this view has also been endorsed by the Tribunal in other cases, namely, 1996 (2) ATJ 128 in the case of Sh. Veer Pal Singh Vs. Union of India and Kiran Kishore and Others Vs. Union of India in OA No. 1696/95. The applicant also cites the case of

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Balram Singh Vs. Union of India in OA 2301/95 in which the respondents were directed to consider a grant of temporary status in favour of the applicant and also regularisation of the applicant in his turn in accordance with the scheme with effect from the relevant date reckoning the length of service as Casual labourer including the break in service for which he was not responsible. The applicant has also placed on record by way of Annexure A-8, a note of one Sh. A K Ajmani to the effect that he worked for 207 days during calendar year 1989. The plea of the applicant is that he is eligible for temporary status as also for regularisation in terms of DOPT Notification and the impugned list does not indicate the length of the service of any of the casual labourers included therein. The stand of the respondent that the applicant was not engaged on the date of formulation of the scheme pursuant to the orders of the Tribunal in OA 1489/90 in the case of Sh. T Dominic & Others Vs. Union of India & Others is not a correct appreciation of law. Placing the applicant at Sr. No. 55 in the ineligible list is an arbitrary act. He states that out of five years, he performed the duties for more than 206 days in two years. These two years are 287 days in 1987 and 207 days in 1989, as per the note of Sh. A K Ajmani, dated 2.11.1989 which is Annexure A-8 to the rejoinder.

3. In view of the above discussion, the inclusion of the name of the applicant at Sr. No. 55 in the "Revised Panel of Daily Wagers who are not eligible for regularisation" is clearly arbitrary. The respondents are directed to consider the entire service of the

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applicant, ignorning the provision that he was not in position on the date of promulgation of the scheme. They shall consider him initially for temporary status and eventually for engagement as a casual labour on the basis of his seniority provided work is available. If work is available and no person senior to him is waiting to be engaged, he shall be engaged and his services as a casual labourer before his engagement shall be considered for conferring other benefits like regularisation and absorption in Group 'D'. It is obvious that the applicant shall be preferred over juniors and outsiders and for this purpose, all his earlier services shall be counted.

The OA is disposed of as above. No costs.

Narasimha
(N SAHU) 21/4/98
MEMBER (ADMNV)

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