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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 406/94

New Delhi this the 12th Day of July, 1994.

Mr. Justice S.K.Dhaon, Acting Chairman
Mr. B.N.Dhoundiyal, Member(A)

Shri Roop Chand
S/o Late Sh.Bakshi Ram
R/o B-5/185, Sector 5,
Rohini,
Delhi-110085. . .

APPLICANT

NONE FOR THE APPLICANT

Vs.

1. The Union of India, through
the Secretary,
Department of Post,
Ministry of Communication,
New Delhi-110001.

2. The Chief Post Master General,
Delhi Postal Circle,
Meghdoot Bhawan
New Delhi-110001.

3. The Senior Superintendent of Post Offices
North Division, Delhi-110054. . .

RESPONDENTS

BY ADVOCATE SHRI M.K.GUPTA

ORDER(ORAL)

JUSTICE S.K.DHAON:

The foundation of this OA is the assertion made in paragraph 4.1 of the OA that the applicant was appointed as a temporary/casual packer on 27.4.1981 and he was granted temporary status/regularisation as per the judgement dated 29.11.1989 of the Hon'ble Supreme Court. On the basis of this averment, we had directed the issue of notice to the respondents.

2. The prayers in this OA are as follows:

1. The applicant has been refused duty by the respondents without giving him any show cause notice and without giving him a reasonable opportunity. He may be allowed to rejoin duty and may be declared to be on duty for the whole period for which he has been refused duty by the respondents.
2. The respondents may be directed to allow the applicant to continue to work on the same post of Postman, Speed Post Centre on which he had been working for about three years and to which post, he was promoted from Group 'D' post.
3. A direction may be issued for payment of wages for the period he has been refused duty.

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4. Cost may be awarded to him.

3. A counter-affidavit has been filed on behalf of the respondents. Therein, the material averments are these. The applicant was initially taken on duty as a daily wage packer from 27.4.1981 and he had been working in different post offices whenever his services were required. From 4.7.1986 to 14.3.1990, he remained absent from duty without giving any information to any officer/authority. He rejoined duty on 14.3.1990 and his case for grant of temporary status could not be considered at that time as he had not worked continuously for 240 days in each year. He has not been given temporary status till date. He was a habitual absentee besides being most irresponsible in discharging the duties assigned to him. On 24.1.1994, he was given 75 articles at 11.00 hrs. in the first delivery. He attended the office at 3.00 p.m. for collecting the speed post articles of second delivery. He delivered 40 articles out of 75 collected by him in the first delivery. He was given 13 speed post articles in the second delivery at 3.00 p.m. and as such he had total 48 articles. Out of 48 articles, he delivered only 3 articles and the rest 45 articles were returned with the remarks "House locked". Thereafter, he worked only for two days i.e. 27th & 28th January, 1994 and on subsequent dates, he remained absent without any information.

4. The communication dated 12.4.1991 of the Director (Staff), Ministry of Communications, Department of Posts addressed to All Chief Postmaster General/ Postmasters General, All Principals, Postal Training Centres etc. contains the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. Para 1 of the Scheme, as material, states that temporary status would be conferred on the casual labourers in employment as on 29.11.1989 and who continue to

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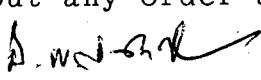
be currently employed and have rendered continuous service of at least one year. During the year, they must have been engaged for a period of 240 days (206 days in the case of offices observing five days weeks).

5. In the rejoinder-affidavit served upon Shri M.K.Gupta, learned counsel for the respondents, though a copy of the same is not on record, the applicant has failed to demonstrate that he was in employment as on 29.11.1989. Thus, the first ingredient, as contained in para 1 of the said Scheme, is lacking in the case of the applicant. We have no reason to disbelieve the version of the respondents as contained in the counter-affidavit particularly when the same has not been rebutted in the rejoinder-affidavit. We thus come to the conclusion that under the Scheme, the applicant was not entitled to be given a temporary status. Therefore, the assertion of the respondents that factually no order conferring temporary status was passed in favour of the applicant stands substantially corroborated.

6. Once we come to the conclusion that the applicant did not acquire any temporary status, it follows that having regard to the performance of the applicant as indicated in the counter-affidavit, the respondents were justified in doing away with his services.

7. We may note that the case has been called in the revised list. However, no one appeared in support of this OA.

8. No ground exists for interference in this OA. Therefore, the same fails and is dismissed but without any order as to costs.


(B.N.DHUNDIYAL)
MEMBER(A)


(S.K.DHAON)
ACTING CHAIRMAN