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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1176/2000

New Delhi this the 12th day of December, 2000.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN

Shri Kishan Pal,
S/o Sh. Chander,
H.No.42, Balmiki Mohalla,
Tughlakabad,
New Delhi.

...Applicant

(By Advocate Sh. S.K. Sawhney)

-Versus-

1. Secretary,
Public Works Department,
Govt. of NCT Delhi,
MSO Building,
I.P. Estate,
New Delhi.

2. Asstt. Engineer-V,
Public Works Department,
P.W.D. Division IV,
NCT Government,
I.I.T. Hauz Khas,
New Delhi.

...Respondents

(By Advocate Shri George Paracken)

O R D E R

By Justice V. Rajagopala Reddy, Vice-Chairman (J):

The applicant was appointed as Sewerman under respondent No.2, from 1.12.95 to 30.12.97, almost continuously. In terms of the OM dated 10.9.93 the applicant claims that he was entitled for grant of temporary status but, it is stated, his work has been entrusted to a Contractor, though the work on which the applicant was employed was of a perennial nature. The applicant, therefore, filed the present OA for grant of temporary status as a Sewerman and for eventual regularisation. The applicant's working during the spells stated supra is not denied by the respondents. It is, however, stated that the applicant was ^{an} employee of the respondents but ~~he~~ was working under a Contractor who has been entrusted with the work of providing Sewerman.

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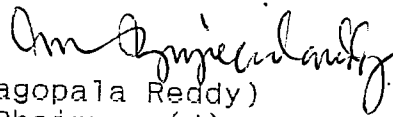
2. I have given careful consideration to the submissions made by the learned counsel. In view of the admitted position that the applicant has been working since 1995 to 1997 the applicant is entitled for temporary status under the OM dated 9.10.93. The statement of the respondents that he was working under a Contractor and not with them cannot be countenanced. It is seen from the attendance register filed by the applicant that he had been working and his presence was marked during the years 1995-97. In the case work was entrusted to the contractor the contractor's name should have found a place in the register. I am also of the view that the engagement of a contractor for providing one Sewerman is only in breach of and to circumvent the provisions of Casual Labour (Regulation and Abolition) Act, 1970. The work of a Sewerman cannot be said to be seasonal. The drains have to be attended to by the Sewerman every day. It is also seen from the OA that the applicant was continuously engaged from 1995-97 as a Sewerman. The work of a Sewerman being of a perennial nature, it is not permissible for engaging a contractor to perform such work vide Secretary, Haryana State Electricity Board v. Suresh & Others, JT 1999 (2) SC 435. I, therefore, hold that the engagement of a contractor is illegal and is accordingly quashed.

3. In view of the foregoing the applicant is entitled for grant of temporary status in terms of the OM dated 10.9.93, as he has worked for more than 240 days in a year. The respondents shall consider his case for grant of temporary status within a period of two months from the date of receipt of a copy of this order. The respondents are also directed to engage the applicant as a Sewerman in

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the place of the contractor. The OA is accordingly allowed with costs of Rs.750/-(Rupees seven hundred fifty only).


(V. Rajagopala Reddy)
Vice-Chairman (J)

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