CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1810/2000
and
OA 2837/2001

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New Delhi, this the 25th day of November, 2002

Hon'ble Sh. Govindan S.Tampi, Member (A)

OA 1810/2000

Sh. Ajay Kumar
Beldar (on Muster Roll)
Sub Division (Civil)
C.C.W., All India Radio
Siri Fort Auditorium
New Delhi.

...Applicant

(By Advocate Sh. V.K.Rao)

V E R S U S

1. Director General
   All India Radio
   Akashvani Bhawan
   New Delhi - 110 001.

2. The Chief Engineer - I
   Civil Construction Wing
   All India Radio
   2nd Floor , PTI Building
   Parliament Street
   New Delhi - 110 001.

3. The Executive Engineer (Civil)
   Civil Division No.1
   Civil Construction Wing
   All India Radio
   C/3, 1st floor, Room No.116
   Pushpa Bhawan, M.B.Road
   New Delhi - 110 062.

...Respondents

(By Advocate Sh. D.S.Mahendru)

OA 2837/2001

Sh. Ajay Kumar
Beldar (on Muster Roll)
Sub Division (Civil)
C.C.W., All India Radio
Siri Fort Auditorium
New Delhi.

...Applicant

(By Advocate Sh. V.K.Rao)

V E R S U S

1. Director General
   All India Radio
   Akashvani Bhawan
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Civil Division No.1
Civil Construction Wing
All India Radio
C/3, 1st floor, Room No.116
Pushpa Bhawan, M.B.Road
New Delhi - 110 062.

4. Union of India
through the Secretary
Ministry of Information & Broadcasting
Shastri Bhawan, New Delhi - 110 001.

...Respondents

(By Advocate Sh. D.S.Mahendru)

O R D E R (ORAL)

By Sh. Govindan S.Tampi,

Grant of Temporary status since 1994 and regularisation thereafter are the reliefs sought for in this OA. Applicant also seeks that order dt. 8-9-2000 issued by respondent No.3 be quashed and set aside.

2. Heard S/Shri V.K.Rao and D.S.Mahendru, ld. counsel for the applicant and the respondents respectively.

3. The applicant has been working as Beldar on casual basis from July 1992 to November, 1993, December 1993 to January 1997 and thereafter from January 1997 to April 1999 and had completed 240 days in all the years. He had been making representation for regularisation/temporary status in 1997 and 1998. His services were suddenly disengaged on 21-9-99. OA No. 2233/99 filed by the applicant against the disengagement was disposed of on 5-7-2000 with directions to the respondents to consider the case of

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the applicant for grant of temporary status in accordance with DOPT's Scheme of 10-9-1993. As the applicant knew that before the period granted for implementation, the respondents were planning to lay him off, he filed OA 1810/2000 and got an interim order on 12-9-2000 which continues today. In the said OA, reference had been made to two vacancies which have arisen, due to the demise of the incumbents. His case for grant of temporary status was negatived on the ground that he did not have the requisite service of 240 days in a year as a casual worker, which was illegal, as the issue has been settled by the earlier order of the Tribunal in OA 2230/99 issued on 5-7-2000. The respondents were not discharging the responsibility properly. Similarly inspite of the applicant's being present in the office, order of termination was sought to be sent by registered post, which was rather strange. On account of the stay , he was permitted to work till 19-9-2000 but his services had been disengaged orally. On 5-7-2000 leading to the filing of this OA after withdrawing OA No. 1810/2001. Grounds raised in the OA are as below :-

(i) the order dt. 8-9-2000 was illegal and arbitrary ;

(ii) having been granted consideration for temporary status on 5-7-2000 in OA 2233/99, respondents could not have denied it ;

(iii) impugned order was non-speaking in nature ;

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(iv) having completed the requisite period as casual worker for six years, he was entitled for temporary status in terms of DOPT's Scheme of 10-9-93 ;

(v) persons similarly circumstanced have been granted temporary status ;

(vi) there was work with the respondents and vacancies also exist ;

(vii) certain juniors have been granted temporary status and one of them has also been regularised ;

(viii) respondents have acted malafide and has caused mental distress to the applicant.

OA, in the circumstances, should be allowed, pleads the applicant.

4. In the reply filed on behalf of the respondents, it is submitted that temporary status had not been given to anyone similarly placed as the applicant. The present application is hit by limitation. According to them, the plea raised by the applicant that he had been working as a Casual Labourer - Beldar from 1992 was incorrect and he has been working only with breaks and not continuously. It was also incorrect to hold that he had 240 days in a calender year. All his pleas had been taken care of while disposing of OA 2233/99. It was true that he was engaged as a muster roll Beldar in the suspension

vacancy of a Beldar in 1999 and when the suspension was revoked, original person returned to duty and correctly so. The applicant had been disengaged in September 1999 on account of non-availability of work. Respondents also call in question the veracity of the passes issued to him, as per his declaration. Existence of two vacancies are also questioned by the respondents. All the grounds raised by the applicant are contested by the respondents as according to him the applicant has no case at all and that the OA has to be dismissed.

5. In their rejoinder, the applicant points out that there existed two vacancies against one of which his case could be considered for grant of temporary status. In fact even in 1999 he was holding the post of Beldar and the respondents' action in denying him the temporary status was improper. Moreover when he has been granted the said benefit by the decision of the Tribunal in OA 2233/99 on 5-7-2000, it could not have been denied by the respondents.

6. Both Sh. V.K.Rao and Sh. D.S.Mahendru, ld. counsel reiterated their contentions during the oral submissions.

7. I have carefully deliberated on the rival contentions and gone through the facts brought on record. The applicant has been working with the respondents as a Casual Beldar since 1992 and had also become entitled for grant of temporary status in terms of DOPT's Scheme dt. 10-9-93. This has been the

finding of the Tribunal in 5-7-2000 recorded while disposing the earlier OA No. 2233/99 and directing that the applicant's case be considered for grant of temporary status in terms of DOPT's Scheme of 10-9-93. As the said decision has not been challenged and has reached finality, respondents could only have given effect to them instead of interpreting the same to deny the same to the applicant. It was, therefore, not open to the respondents to record any finding that the applicant had not completed the requisite period, as it has already been decided upon. Respondents could have desisted from giving effect to the order only by having the order set aside or stayed by a higher forum, which has not occurred in this case. The applicant has also brought out that two vacancies have arisen on account of the demise of two beldars Uma Shanker and Joginder Singh. In view of the above, it is clear that the respondents have acted incorrectly in dispensing with the services of the applicant instead of granting him temporary status under DOPT's Scheme of 10-9-93. The doubts raised by the respondents on the evidence of attendance have no basis. He is, therefore, entitled for re-engagement and grant of temporary status, but for the period, if any, he was out of job, he would not be entitled for any backwages.

8. In the above view of the matter, the OA succeeds to a substantial extent and is accordingly disposed of. Respondents are directed to treat him as continuing in service (on account of the interim stay granted on 17-10-2001) and grant him temporary status from the year when he had completed 240 days of

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working in a year from 1992-93 in terms of the Scheme dt. 10-9-93 with all consequential benefits. If by any change in the interregnum the applicant was out of the job, he would be denied the wages only for that period. This order is in reiteration of the Tribunal's order dt. 5-7-2000 issued while deciding OA No. 2233/99. No costs.

(GOVINDAN S.TAMPI)
ADMINISTRATIVE MEMBER

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