

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1987/2000

New Delhi this the 5th day of October, 2001.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Gyan Singh,  
R/o Vill Jaliawas, P.O.  
Sulthana Bawal, Distt. Rewari,  
Haryana.

-Applicant

(By Advocate Dr. Surat Singh)

-Versus-

1. Commissioner of Customs,  
Central Excise Commissionerate,  
Delhi III C.R. Building,  
New Delhi.
2. Deputy Commissioner (P&V),  
Central Excise Commissionerate,  
Delhi III C.R. Building,  
New Delhi.
3. Asst. Commissioner,  
Central Excise Division II  
Gurgaon.
4. Superintendent,  
Custom & Central Excise,  
Range IX, Dharuhera,  
Rewari (Haryana).

-Respondents

(By Advocate Shri R.R. Bharti)

O R D E R (ORAL)

Heard the learned counsel for the parties. The claim of the applicant is that having performed the duties as daily wager since 1994 his claim for regularisation has not been considered and he has not been paid wages as admissible under the instructions. The applicant has also challenged the non-conferment of temporary status. The applicant placing reliance on a certificate issued by the Superintendent, Customs and Central Excise, Dharuhera dated 4.6.99 contended that here the case of the applicant has been recommended for conferment of temporary status by showing him to be a daily wager and performing the duties since 1994. The contention of the learned counsel for the

applicant is that in pursuance of letter dated 26.8.98 seeking details of daily wagers for the purposes of according them temporary status the letter has been written by the Superintendent mentioning details about the engagement of the applicant. Further placing reliance on a letter issued on 23.6.98 it is stated there also that the Superintendent has written to the Assistant Commissioner that the applicant has been engaged as a whole time daily wager at a rate of Rs.70/- per day as fixed by the Deputy Commissioner, Rewari by his letter dated 28.8.97. It is also stated that the applicant has been working since 1994 without being paid from the Government account yet he agreed to work if he is paid at the rate of Rs.70/- per day and recommendations have been made to pay him the same amount from the contingencies fund. In this backdrop it is stated that the work has been taken from the applicant since 1994 without paying him the wages admissible as per the instructions and also by not considering his case for regularisation and accord of temporary status even if the same has been recommended by his immediate senior. The applicant further stated that this contravenes the provisions of Articles 14, 16 and 21 of the Constitution of India and also amounts to exploitation.

2. On the other hand, strongly rebutting the contentions of the applicant the learned counsel for the respondents stated that the Superintendent is not at all competent to take a decision regarding engagement of a casual labour and his recommendations are to be forwarded to the Deputy Commissioner who is the only authority to decide about the engagement of casual labour and also accord of temporary status. It is stated that the applicant has been working in a private capacity and his

services have been utilised by the staff for a petty task of brining water etc. and the payment has been made to him by the concerned staff in their personal capacity. It is stated that this court has no jurisdiction to entertain the grievance of the applicant as there is no relationship of master and servant exists between the applicant and the respondents and though the applicant has been working since 1994 he has not been paid out of the Government funds and as such he cannot be said to be holder of a civil post and not amenable to the jurisdiction of this court under Section 14 of the Administrative Tribunals Act of 1985.

3. I have carefully considered the rival contentions of the parties and perused the material on record. No doubt the working of the applicant since 1994 with the respondents has not been disputed by the respondents. The only ground to resist the claim is that the applicant has not been appointed as a daily wager by the competent authority and he has not been paid from the Government fund. As such having not paid from the Government fund and no relationship of master and servant between the applicant and the respondents I do agree with the learned counsel for the respondents. Merely because the Superintendent has recommended the case of the applicant in pursuance of a letter by the Assistant Commissioner for particulars of the daily wagers for the purpose of regularisation would not bestow any right upon the applicant to claim regularisation. It is the Deputy Commissioner who is the competent authority to decide about the engagement of daily wagers and also for conferment of temporary status upon them. Having failed to show any evidence apart from the certificate issued by the Superintendent that the applicant has been appointed by the

competent authority the claim of the applicant is not sustainable. In fact having not established that the applicant has been paid from the Government fund this court has no jurisdiction to entertain the grievance of the applicant. The O.A. is, therefore, dismissed for want of jurisdiction. However, the applicant is at liberty to assail his cause of action and grievance pertaining to engagement and payments of wages before the appropriate forum, in accordance with law. No costs.

S. Raju

(Shanker Raju)  
Member (J)

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