

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1990/2000

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

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

Ram Lal, S/o Sh. Prithvi Singh,
R/o Vill Kalaka, Tehsil and
Distt. Rewari,
Haryana.

-Applicant

(By Advocate Dr. Surat Singh)

-Versus-

1. Commissioner of Customs,
Central Excise Commissionarate,
Delhi III C.R. Building,
New Delhi.

2. Deputy Commissioner (P&V),
Central Excise Commissionarate,
Delhi III C.R. Building,
New Delhi.

3. Asst. Commissioner,
Central Excise Division II
Gurgaon.

4. Superintendent,
Custom & Central Excise,
Range Dharuhera,
Distt. Dharuhera

-Respondents

(By Advocate Shri R.R. Bharti)

O R D E R (ORAL)

Heard the learned counsel for the parties. The applicant's claim is that he has been appointed as a daily wagger for a period of six months w.e.f. 1.6.94 on temporary contingent basis and was paid wages at the rate admissible under the rules. The applicant continued as such till 29.12.99 and thereafter the Superintendent, Central Excise by his communication dated 14.1.2000 written to the Deputy Commissioner recommending continuance of the applicant and his utilisation till one Smt. Bimla Devi, Sepoy joined at his place. The applicant's contention is that on the recommendation of the Superintendent the applicant continued to work till 29.5.2000 and thereafter

without being paid his wages his services were again dispensed with. The applicant contends that he had completed 240 days as requisite for his regularisation and accord of temporary status as per the DOPT Scheme. It is further contended that the respondents have exploited the applicant and have not paid him despite getting work from him.

2. On the other hand, strongly rebutting the contentions of the applicant, the learned counsel for the respondents stated that on being accorded approval by the Deputy Commissioner the applicant was initially engaged for a period of six months on daily wages and thereafter for want of approval and sanction the applicant's services were dispensed with. As regards the certificate issued and the recommendations made by the Superintendent it is stated that he is not competent to accord any approval or continue the applicant as a daily wager and without the approval of the competent authority one cannot work and get wages. It is also stated that during this period the respondents have no liability to pay to the applicant any wages as he has continued without any sanction or approval by the competent authority. In this view of the matter it is stated that as the applicant has not completed 240 days he is not entitled for regularisation. The learned counsel for the applicant in the rejoinder stated that once the respondents have recommended the case of the applicant and continued him they cannot be allowed to take advantage of their own wrong and are estopped from taking the view that the applicant has not continued as a daily wager with them and their failure to count this service towards qualifying service for accord of temporary status the applicant has been put to a loss, having the legitimate expectation that once he

has been allowed by the Superintendent and having altered his position by working, denial of the consequential benefits is against the law.

3. Having regard to the rival contentions of the parties I find that the claim of the applicant is not sustainable. The applicant who had initially been engaged on daily wages for a period of six months has not continued thereafter. Having continued without any sanction or approval of the competent authority, i.e., the Deputy Commissioner the same cannot be counted towards qualifying service for the purpose of reckoning his service for accord of temporary status as per the DOPT Scheme. What has been written by the Superintendent is only a recommendation to the Deputy Commissioner. Having failed to show any approval/sanction by the Deputy Commissioner thereafter for his continuance the applicant is not at all entitled for regularisation.

4. As regards the wages are concerned, as the applicant has worked without any approval of the competent authority this court has no jurisdiction to entertain his grievance. However, it is left open to the applicant to pursue his remedy in civil law, as advised.

5. In the result, the OA is found bereft of merit and is accordingly dismissed, at the admission stage itself, with liberty to the applicant to assail his grievance regarding salary and other consequential benefits before the appropriate forum in accordance with law. No costs.

S. Raju
5/10/2001.
(Shanker Raju)
Member (J)

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