

IN THE CENTRAL ADMINISTRATION TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No.2500/2000

This the 17th day of August, 2001

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

(12)

1. Himmat Singh S/o Shri Birbgal Singh
r/o E-1/341, Nand Nagri, New Delhi.
2. Jitendar Kumar S/o Shri Tulsiram
r/o 352/III Pushp Vihar, New Delhi.
3. Mahender Singh S/o Santosh Singh
r/o Vill. Bral P.O. Bral,
Bullendsher U.P.))
4. Vinok Kumar s/o Ramesh Chand
r/o D1/1207, Vasant Kunj,
New Delhi.

..... Applicant

(By Advocate: Shri H.C. Sharma))

VERSUS

1. Union of India through
Secretary
Dept. of Economic Affairs
North Block, New Delhi.
2. The Deputy Director (Admin.)
Finance Commission
10 Floor Bank of Baroda Bldg.,
16 Sansad Marg,
New Delhi.

..... Respondents

(By Advocate: Shri P.H. Ramchandani)

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (Judl)

This is a joint application filed by 4 applicants as the applicants are aggrieved of their disengagement of their services vide a verbal order dated 30.11.2000. The applicants are also aggrieved of the fact that since they had worked for more than 206/240 days in a year so they are entitled to the benefit of DOP&T instructions dated 10.9.93 for grant of temporary status and for consideration of regularisation against Group 'D' posts so they have prayed for the following

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reliefs:-

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(i) To direct respondents to consider the applicants for grant of temporary status as per the DOP&T Scheme dated 10.9.93 and consequential relief from the date they have completed minimum length of service with respondents.

(ii) To command respondents to consider the applicants after granting temporary status, for regularisation against vacant Group 'D' posts as per rules and instructions.

2. The facts as alleged by the applicants in brief are that they were deployed by the respondents w.e.f. the dates mentioned below:-

- (1) Sh. Himmat Singh, applicant No.1 wef 17.9.98
- (2) Sh. Jitender Kumar, applicant No.2 wef 10.10.98
- (3) Sh. Mahender Singh applicant No.3 wef 21.9.98
- (4) Sh. Vinod Kumar, applicant No.4 wef 17.3.99

3. It is further stated that they had been working on daily rated basis since the dates indicated above. They claim that since they have worked for requisite number of days as per the Scheme dated 10.9.93 so they are entitled to be regularised in accordance with the rules and instructions on the subject. It is also

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stated that the respondents have perennial nature of work with them and they need the services of those employees who assure regular appointment so they prayed that the OA should be allowed and the applicants should be regularised.

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4. Respondents are contesting the OA. They stated that the Government of India had set up the 11th Finance commission under Article 280 of the Constitution with a specific purpose and time frame of life for analysing and recommending a cohesive formulae for apportioning the revenues between the Centre and the State. The Chairman and Members are drawn from various fields including political appointments at the Chairman level and the officers and staff are normally drawn on deputation basis for a limited period. The secretary of the Commission has also been declared as "Head of the Department" in terms of the Financial Rules and he has been vested with powers for making appointments/drafting employees at the lower level and as such, prima facie, the Ministry respondent No.1 has no role to play in the matter of making appointments in the lower category of officials in the Commission. Moreover the Commission was meant to function for a very limited period and normally the Commission used to draw staff/engaged on daily wages to carry on day to day work and after the Commission became functus officio, normally the staff engaged by the Commission directly for a limited purpose and period, also lose their position in the Commission and it has been so held in OA 2553 Shri Satyendra Kumar and Others Vs. Union of India and Others which was decided on 6.12.2000.

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5. It is denied that any verbal order regarding termination of services were issued. They have also stated that the Scheme of the DOP&T dated 10.9.93 is not applicable to the applicants as the same is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices. The Commission being an independent constitutional body set up under Article 280 of the Constitution of India for a fixed tenure cannot be said to be a department of the Ministry. However, the engagement of the applicants is not denied so it is stated that since the Commission itself was for a very limited period for a fixed tenure and the casual labourers employed are not being covered under the Scheme of the DOP&T dated 10.9.93 so the applicants have no right to claim regularisation and the OA should be dismissed.

6. Heard the learned counsel for the parties and gone through the records of the case.

7. The learned counsel appearing for the applicant submitted that though this Tribunal vide order in OA 2553/2000 had dismissed the OA of a similarly situated person but in a subsequent OA 2555/2000 notices had been issued to the respondents and the same had been admitted. It is also stated that notices were issued by the same Bench of the Tribunal so probably the court had realised later on that the Scheme applies to the applicants.

8. The counsel for the applicant also referred to the documents Annexure A-1 and A-2 vide which the Finance Commission had stated that the competent authority has conveyed sanction for grant of Honorarium to daily wages after 11th Finance Commission for doing extra laborious work in connection with the preparation of the Final Report of this Commission. The counsel for the applicant also submitted that Finance Commission is appointed by the Ministry of Economic Affairs so the persons engaged by them are covered under the Scheme of the DOP&T dated 10.9.93 hence the respondents should be directed to confer temporary status upon the applicants and they should be re-engaged as casual labourers.

9. I have given my thoughtful consideration to the matter involved. The fact that the applicants were deployed by the Finance Commission is not denied by the applicants rather the documents filed by the applicants along with OA go to show that all the employees had been deployed by the Finance Commission.

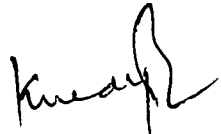
10. The Constitution of Finance Commission is regulated under Article 280 of the Constitution of India. The Article 280 of the Constitution of India provide that the Government of India can set up a Finance Commission periodically for a fixed tenure and the matter with regard to sharing of expenditure and revenue is to be recommended by the Finance Commission. Thus the nature of the constitution of Finance Commission as per the provision of Article 280 itself says that the Finance Commission is only constituted for a short tenure and that too for a very limited period or purpose, as such it

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cannot be said that the Finance Commission is a regular wing of the Finance Ministry rather it is a constitutional body itself constituted under Constitution of India so I am of the considered opinion that the applicants cases are not covered under the Scheme of the DOP&T dated 10.9.93. Therefore, the applicants cannot seek the relief of conferring temporary status or reengagement claiming that the work which was available with the Finance Commission is of a perennial nature also since after accomplishment of purpose the Commission itself is wound up. Thus, even the exitance of employer does not remain there so there is no question of reengagement or conferring temporary status.

11. Hence, I find that the OA has no merits and the same is dismissed. No costs.


(KULDIP SINGH)
MEMBER (JUDL)

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