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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2552/2000

New Delhi, this 14th day of December, 2001

Hon'ble Shri M.P. Singh, Member(A)

Jitender Pal  
4243, Aryapura  
Gali Chandra Singh, Subzi Mandi, Delhi .. Applicant  
(By Shri A.K. Behara, Advocate)

versus

Govt. of NCT of Delhi, through

1. Chief Secretary  
5, Sham Nath Marg, Delhi
2. Secretary  
Public Works Department  
Old Secretariat, Delhi
3. Chief Engineer, PWD Delhi Admn. Zone-1  
MSO Building, 7th Floor  
Police Hqrs., New Delhi .. Respondents

(By Shri Mrs. Jasmine Ahmed, Advocate)

ORDER(oral)

Applicant has filed this OA praying for a direction to the respondents to regularise his service against available Group D post with all consequential benefits.

2. Brief facts of the case are that the applicant was engaged on daily wages waterman w.e.f. 1.5.87 for a period of 5 months and thereafter his term has been extended from time to time. The contention of the applicant is that he is continuously working for such a long period and therefore he is entitled for regularisation. He has made a representation but the same has not been considered. Aggrieved by this, he has filed this OA seeking the aforesaid relief.

*M.P.Singh*

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3. Respondents in their reply have stated that the applicant is not a government servant and hence the OA is outside the jurisdiction of the Tribunal. As he is not holding any civil post he is not entitled for regularisation. They have also stated that the applicant has not been able to prove that he is continuously employed for 9 years as claimed by him. Since he is not a government servant, there is no question of giving any relief to him and hence the OA deserves to be dismissed.

4. Heard the learned counsel for the rival contesting parties and perused the records. During the course of the arguments, learned counsel for the applicant drew my attention to various documents from page 30 to 119 of the paperbook to show that the applicant has been working continuously with the respondents for the period from 1991 to 2000. He also drew my attention to the judgement of the Supreme Court in the case of Gujarat Agricultural University Vs. R.L.Bechar & Ors. (2001)3 SCC 574, wherein it has been held as under:

"35. In the present case after absorption of employees under clause 1, we have already directed the State Government what they have to do in coordination with the appellant University to assess and find additional regular posts required by the University. In doing so, they shall keep in mind the continuous work which the workers are doing for a long number of years and after fixing the number it should further create such additional posts as necessary and absorb them. This exercise is to be undertaken, as aforesaid, within six months".

*anil*

5. On the other hand, the learned counsel for the respondents has denied that the applicant is continuously working for 9 years. After perusing the documents annexed by the applicant to the rejoinder, it is quite clear that he has been working with the respondents continuously from 1991 to 2000. He is therefore covered under the Scheme of 10.9.93 issued by DoPT and he is entitled for consideration for regularisation as he has been working for such a long time. His case is also covered by the judgement of apex court supra. In the circumstances, I feel that ends of justice will be duly met if a direction is given to the respondents to consider regularisation of the applicant against a suitable Group D post from the due date in accordance with law, rules and instructions on the subject. I do so accordingly. In case there is no vacancy, he may be considered for appointment on regular basis against the first vacancy available in any unit of the respondent-department or by creating a post for him. This exercise shall be completed within a period of three months from the date of receipt of copy of this order. No costs.

D.P.S.  
(M.P. Singh)  
Member(A)

/gtv/