

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2632/2000

New Delhi, this the 05th day of October, 2001

Hon'ble Shri Kuldip Singh, Member (J)
Hon'ble Shri S.A.T. Rizvi, Member (A)

1. All India Central PWD (MRM)
Karamchari Sangathan through
its General Secretary, Shri M.F. Siddique
2. Iqbal Singh & Ors.
3. Karan Singh
4. Mahabir Singh
5. Smt. Mangli
6. Ramdev
7. K. Amir Dam
8. Sohan Singh
9. Krishan Pal
(All C/o All India CPWD (MRM)
Karamchari Sangathan
34 D, D 12 Area
Sector 4, Raja Bazar
New Delhi-1.

...Applicants

(By Advocate: Shri K.R.Nagaraja)

Versus

1. Union of India through
the Secretary
Ministry of Urban Development
Nirman Bhavan, New Delhi
2. The Director General (Works)
CPWD Nirman Bhavan,
New Delhi.

...Respondents

(By Advocate: Shri M.M.Sudan)

O R D E R

By Hon'ble Shri S.A.T. Rizvi, Member (A):

All India Central PWD (MRM) Karamchari Sangathan through its General Secretary Shri M.F. Siddique and eight other applicants have filed the present OA with a prayer for a direction to the respondents to take into account the services rendered by them on muster roll for

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the purpose of computation of qualifying service for calculating the amounts of pension and gratuity payable to each of them. The respondents seek to contest the OA and have filed a counter reply. The applicants have thereafter filed a rejoinder.

2.. We have heard the learned counsel on either side at length and have perused the material placed on record.

3.. The applicants were appointed on a temporary and a day to day basis on condition that their services would be terminable at any time without prior notice. They were engaged as daily wage workers. A copy of the appointment letter issued in the case of one of the applicants, namely, Shri Karan Singh has been placed on record (page 17 of the paper book). We are told that the other applicants have also been appointed similarly. After working on muster roll basis as above, the applicants have been absorbed by appointment in the work charged establishment of the CPWD by memorandums separately issued in respect of each applicant. Copies of such memorandums have been placed on record. One of the several conditions stipulated in the aforesaid memorandums runs as follows:-

"4. No pension or gratuity will be admissible for the service on muster roll period but will be eligible for grant of leave." (emphasis supplied)

4. From a statement placed on record (page 52 of the paper book), we find that the eight individual applicants in the present OA have worked on muster roll basis for varying periods of time before they were absorbed in the

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work charged establishment. The aforesaid statement shows that the period during which they have worked on muster roll basis varies from 10 to 14 years. The respective dates of retirement of each of the individual applicants have also been shown in the aforesaid statement. The respondents have, for the purpose of determining qualifying service, counted the services rendered from the respective dates of absorption in work charged establishment, and not from the date of their respective appointments on muster roll basis. This method of computation of qualifying service has deprived the applicants of periods varying from 10 to 14 years towards the computation of qualifying service. The corresponding financial loss likely to accrue to them at the time of determination of pensionary benefits will thus be considerable. Hence the grievance raised in this OA.

5. The learned counsel appearing on behalf of the applicants places reliance on the definition of qualifying service given in the relevant rules. According to him, any period treated as duty will count as qualifying service in terms of the provisions made in Rule 13 of the CCS (Pension) Rules, 1972. The applicants have, according to him, worked on muster roll basis continuously and without break until their absorption in the work charged establishment. Accordingly, the entire period of service rendered by each one of them on muster roll basis will also have to be counted towards qualifying service. The learned counsel has next proceeded to rely on Dhirendra Chamoli and Anr. Vs. State of U.P. decided by the Hon'ble Supreme Court on 5.8.1985 and reproduced in (1986)

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SCC 637 and Surinder Singh & Another Vs. Engineer-in-Chief & Ors., decided on 17.1.1986 and reproduced in (1986) 1 SCC 639. We have perused the aforesaid judgements and find that the sum and substance of the law laid down in them is that casual workers performing the same duties and responsibilities as regular employees are entitled to receive the same salary and for the same conditions of service as are received or are applicable to regular employees. At the same time, the Supreme Court has also held that such casual workers can be regularised only when sanctioned posts become available. The applicants in the present OA have been regularised, as already seen, from the respective dates of their absorption in different work charged posts.

6. The learned counsel appearing on behalf of the respondents has, to begin with, drawn our attention to the Office Memorandum issued by the respondent-authority on 27.8.1981 (Annexure P-10) dealing with the matter of absorption of muster roll employees in the work charged establishment of the CPWD. The same provides that the casual workers will be taken on the work charged establishment only after screening by a Committee and further that no muster roll employee shall be considered eligible for appointment on a regular basis unless he possesses the prescribed educational and other qualifications and passes such tests may be as prescribed in the Recruitment Rules for the post. According to him, while the applicants have no doubt been taken on the work charged establishment by way of absorption, they have not been appointed against regular posts by following the

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procedure laid down in the relevant recruitment rules. He has also placed reliance on the Full Bench judgement of this Tribunal in Rehmat Ullah Khan & Ors. Vs. Union of India & Ors., reproduced in Full Bench Judgements of Central Administrative Tribunal (1986 to 1989) published by Bahri Brothers, for bringing home his contention that casual workers, not being holders of civil posts, are not entitled for pensionary benefits. Thus, according to him, the applicants will become entitled for pensionary benefits only after they have been regularised/absorbed in the work charged establishment. He has also drawn our attention to Rule 2 of the CCS (Pension) Rules, 1972 which clearly lays down that the aforesaid rules will not apply to persons in casual and daily rated employment. The condition inserted in the letters by which the applicants have been absorbed in the work charged establishment reproduced in para 3 above also makes it clear that the applicants will have no claim for the period spent on muster roll basis being counted towards qualifying service for the grant of pensionary benefits.


7. We have considered the matter and find that the learned counsel for the applicants' plea that the entire period treated as duty, which implicitly includes the period spent on muster roll basis, will be counted towards qualifying service for the purpose of grant of pensionary benefits will hold good only if the same could be so counted in accordance with the provisions made in Rule 2 of the CCS (Pension) Rules, 1972 and also if they could be treated as holders of civil posts. Since they neither held civil posts during service as casual workers, nor the

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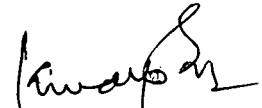
Pension Rules will apply to them, qua casual workers, the aforesaid plea fails and deserves to be rejected.

8. We have also noted that the condition reproduced in para 3 above, which runs contrary to their interest, insofar as grant of pensionary benefits are concerned, has been accepted by each one of them long ago. Thus cause of action in the present OA had actually arisen a number of years ago. The applicants did not proceed to approach this Tribunal well in time in terms of Section 21 of the Administrative Tribunals Act, 1985. The present OA is, therefore, barred by limitation also.

9. For the reasons mentioned in the preceding paragraphs, the present OA fails on merit as well as on the ground of limitation and the same is dismissed without any order as to costs.


(S.A.T. Rizvi)
Member (A)

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(Kuldip Singh)
Member (J)