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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 581/2000

New Delhi this the 5th day of December, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Hari Shankar
S/O Shri Prempal,
4/167, Trilok Puri, New Delhi

.. Applicant

(By Advocate Shri B.S. Oberoi)

Versus

1. Union of India, through
Director General,
Doordarshan, Mandi House,
New Delhi-1

2. Director,
Delhi Doordarshan Kendra,
Akashwani Bhawan,
Parliament Street,
New Delhi.

.. Respondents

(By Advocate Shri S.M. Arif)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The applicant has filed this application praying for a direction to the respondents to grant him 'Temporary Status' as he states that he had completed 240 days of service and further, to direct the respondents to pay the applicant at the same rate which is being paid to other workers doing the same duties.

2. The brief relevant facts of the case are that the applicant states that he has been employed with the respondents since, 1994. His grievance is that in spite of having put in 240 days of service in that capacity, the respondents have failed to grant 'Temporary Status' in terms of DOP&T Scheme dated 10.9.1993.

The applicant states that he has been engaged by the respondents although he states that they have done so by ~~the~~ word of mouth. He relies on the entry passes issued by the respondents for entry into the building- All India Radio and Doordarshan. These passes have been issued to enable the applicant to enter into the Govt. building, in the first instance upto 18.7.1999 and later upto 31.3.2000 (Page 8 of the paper book). Shri B.S. Oberoi, learned counsel for the applicant has submitted that the facts clearly ^{show} ~~state~~ that the applicant has been employed by the respondents as casual workers and assigned to work in different sections by them for a number of years and he is, therefore, entitled to be granted 'Temporary Status' as he had completed 240 days of service during one year, and other consequential benefits. During the hearing, to a specific question asked from the learned counsel for the applicant, he has submitted that it is only in the rejoinder that an averment has been made by the applicant, in reply to the averment made by the respondents in their reply, that he has been engaged and paid for by the Caretaker, who is an employee of the respondents. He has further submitted that the applicant had nothing to do with any outside agency or individual but has stressed on the facts that he had been employed and paid for by the Caretaker. He has, therefore, submitted that the applicant is in turn employed by the respondents as casual worker and, therefore, he is entitled to the benefits flowing from the Scheme issued

by the DOP&T with regard to regularisation and grant of 'Temporary Status' to casual workers who had been employed by other Departments dated 10.9.1993.

3. I have seen the reply filed by the respondents and heard Shri S.M.Arif, learned counsel. The respondents have categorically submitted that the applicant has not been booked by them at any point of time and he is the employee of the contractor, namely, Navdiddh Carriers. Shri Arif, learned counsel ^{the 18/} has submitted ^{set of documents to show that the payments had} been made by the respondents to the contractor which have been taken on record in Mohinder Paswan Vs. UOI Through Director General, Doordarshan and Ors (OA 45/2000) which has been listed at Serial No.3 in today's cause list has been disposed of by order of even date. The present OA is listed at Serial No.4 in today's cause list. Learned counsel has submitted that the applicant is not covered by the DOP&T Scheme dated 10.9.1993 for grant of 'Temporary Status' to casual labourers. The respondents have submitted that they do not possess any records of the applicant and payment to him has been made through the contractor. They have also submitted that in the circumstances, the OA is liable to be dismissed for non-joinder of necessary parties. To this, learned counsel for the applicant has submitted in the rejoinder that the applicant does not want any relief from any party but from the Govt, namely, the respondents in this case. Learned counsel for the respondents has, therefore, submitted that as the applicant has been ^{employed} by the contractor, namely,

M/s Navdiddh Carriers and is being paid by that agency, there is no question of granting 'Temporary Status' or other benefits which are applicable to other casual labourers employed by the department directly.

4. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

5. As mentioned above, it is only in the rejoinder that the applicant has made an attempt to bring on record his statement that he has been engaged and paid for by the 'Caretaker who is an employee of the respondents, and he had nothing to do with any outside agency or individual. The statement of the learned counsel for the applicant that the applicant is employed by the respondents is not borne out by any documents on record, like for example, attendance register, terms and conditions of ~~their~~ ^{his} appointment and payment made by the respondents. Taking into account the facts and circumstances of the case, there does not appear to be any ⁸ master and servant relationship between the respondents and the applicant. ^{So the Tribunal} ⁸ does not have jurisdiction in the present case to enable him to file this application, having regard to ^{the provisions of 8} Sections 2, 14 and 19 of the Administrative Tribunals Act, 1985. In this view of the matter this OA is not maintainable in the Tribunal.

6. In the result for the reasons given above, the OA is dismissed. No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)