

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 996 of 2000
M.A. 1291/2000

New Delhi, this the 11th day of October, 2000

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

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1. Harish Singh Bisht
S/o Shri Sohan Singh
C/o H.No. 131A, Rani Garden
Shastri Nagar,
New Delhi-31

2. Sanjay Kumar Tiwari
S/o
C/o H.No. 131A, Rani Garden
Shastri Nagar,
New Delhi-31

- APPLICANTS

(By Advocate: Ms. Anu Mehta, proxy for Dr. Surat Singh)

Versus

1. Union of India,
Through the Secretary,
Ministry of Finance,
Govt. of India, North Block,
New Delhi

2. Commissioner
Central Excise, C.R. Building
I.P. Estate, New Delhi

3. Asstt. Commissioner
Central Excise,
MOD-IV, G-80
Preet Vihar, Vikas Marg,
Delhi

- RESPONDENTS

(By Advocate: Shri R.R. Bharti)

O R D E R (ORAL)

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

Two applicants S/Shri Harish Singh Bisht and Sanjay Kumar Tiwari have filed this OA under Section 19 of the Administrative Tribunals Act praying for the following reliefs:

- (a) issue a writ of mandamus or any other writ of the like nature directing the respondents to take steps to regularise the services of the applicants; and
- (b) issue directions to the respondents to pay the applicants

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same wages for their work as is being paid to the regular employees of their category applying the principle of equal pay for equal work from the date of their joining the job and also all consequential benefits arising out of the principle of "equal pay for equal work."

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2. Facts in brief are that the applicants had been engaged by the respondents as casual labourers (Security Guards) w.e.f. 1.5.98 and were being given certain artificial breaks to defeat their claim of regularisation. It is submitted that both the applicants have completed more than 240 days of service in a year and are entitled to be regularised.

3. The OA is contested by respondents. They have stated in their reply that both the applicants were initially engaged as daily wagers w.e.f. 1.5.98 for the job of security guard on purely temporary basis for a period of less than three months. It was made clear in their appointment letter that in future they will not claim any regular appointment and that their services could be terminated at any time without assigning any reasons. Their engagement as daily wagers had continued on the same terms and conditions with brief spells of break.

4. I have heard Ms. Anu Mehta, proxy counsel on behalf of Dr. Surat Singh for the applicants and Shri R.R. Bharti for the respondents.

5. As far as the fact that applicants continued

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to work on daily wages w.e.f. 1.5.98 though with some artificial breaks, is not denied by the respondents in their reply. During the course of arguments, counsel for the respondents pointed out that the applicants had been absenting themselves for a long spell of time whereas the counsel for applicants submits that applicants had been regularly reporting for duty but they were denied to mark their attendance, which means that respondents had illegally terminated their services.

6. As the respondents have not denied the fact that applicants have continued to work on daily wages w.e.f. 1.5.98 with brief spells of break and it is also an admitted case that the work of the nature which the applicants had been doing is available with the respondents, I am of the view that this OA deserves to be allowed. Accordingly I allow the OA with the following directions:-

- (i) Respondents are directed to re-engage the applicants if the work of casual labourer (Security Guard) is available with them, in preference to juniors and freshers;
- (ii) Respondents shall go through their records and if they come to the conclusion that applicants have completed 240 days of service in a year as per the DOPT Scheme dated 10.9.93, they shall take steps to confer temporary status upon applicants. For this purpose, applicants shall make a representation to respondents and the respondents shall dispose of the same by a detailed, reasoned and speaking order; and
- (iii) Respondents shall comply with the above directions within a period of two months from the date of receipt of

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a copy of this order.

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No order as to costs.


(KULDIP SINGH)
MEMBER(JUDL)

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