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CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH.

O.A. NO. 886/89

New Delhi this the 27 th day of July, 1994.

Shri N.V. Krishnan, Vice Chairman(A).

Shri C.J. Roy, Member(J).

Uday Kumar Chakravarty,
S/o Shri A.K. Chakravarty,
RZ/E-7, Mahavir Enclave,
New Delhi.

...Petitioner.

By Advocate Shri Som Dutta Sharma.

Versus

1. Union of India
through Secretary,
Ministry of Information and
Broadcasting,
New Delhi.

2. Director General,
All India Radio,
Parliament Street,
New Delhi.

3. Executive Engineer (Civil),
Division No. 1,
Office of Executive Engineer(Civil),
Civil Construction Wing,
All India Radio,
New Delhi.

...Respondents.

By Advocate Shri Mukesh Gupta.

ORDER

Shri N.V. Krishnan.

The applicant was engaged by the 3rd respondent, The Executive Engineer (Civil), Division No. 1, Civil Construction Wing, All India Radio, New Delhi in July, 1982 on Muster Roll on daily wages. He was employed in the Mandi House till Feb, 1986. Thereafter, from September, 1986 to July, 1987, he worked in the office of Sub Division No. 5 as Work Assistant. In August, 1987, he worked as a Typist. He was removed from service from 1.9.1987.

2. Aggrieved by this action, the applicant has filed this O.A. for a direction to the respondents to reinstate him with full back wages and continuity of service along with other service benefits and to regularise him.

3. The grounds urged are that he worked continuously for 240 days every year after employment upto August, 1987. He has not been paid any retrenchment compensation nor was any notice given to him. The benefits

under Sec. 25(F) of the Industrial Disputes Act have been denied. The department still has vacancies and his juniors are working.

4. The respondents have filed a reply stating that the applicant was engaged as Work Assistant. After completion of the work at Mandi House, Phase-I, the services of the applicant as Work Assistant were not required. Hence, he was terminated. It is also stated that no Work Assistant is working in the department after the applicant was directed not to come for duty. The applicant was surplus as there was no vacancy of Work Assistant in the department.

5. When the matter came for final hearing, the learned counsel for the applicant pressed the application only on one ground. He stated that as the applicant had rendered continuous service for a number of years, he should be considered for being engaged in any vacancy that exists now or that may arise in future. He pointed out that the Department of Personnel has evolved a scheme of granting temporary status by the O.M. dated 10.9.1993. He requests that his case should be considered in the light of this memo.

6. The learned counsel for the respondents points out that the scheme applies to persons who, as casual labourers, are in employment on the date of issue of that O.M. and should have rendered continuous service of at least one year.

7. We have carefully considered this matter. The applicant has approached this Tribunal on 24.4.1989 and an objection has been raised by the respondents that it is barred by limitation u/s 20 and 21 of the Administrative Tribunals Act. We, however, notice that this is a hard case where the applicant has rendered casual work charged service for nearly five years from 1982 to 1987 continuously without any break. In the normal course, a regular post should have been created in such circumstances. Further, in similar circumstances, the Supreme Court has, in the case of Inder Pal Yadav VersusUnion of India (1985(2)SCC 648) where the casual labourers in the Railways, who had rendered long years of service, had been discharged due to the completion of work, directed that a scheme should be prepared to give them relief.

8. In the present case, such a general scheme has been prepared but it comes into force only from 1.9.1993 and would apply to persons who were working as casual labourers on that date.

9. Considering the fact that the applicant has rendered five years service which, if it had been rendered on a temporary post, would have entitled to him to quasi-permanency, we are of the view that as a special case his claim requires consideration.

10. In the special circumstances, we feel that the applicant should be granted temporary status in accordance with the Office Memo No. 51016/2/90-Estt.(C) dated the 10th September, 1993 by the Department notwithstanding that he does not satisfy para 4(i) of that O.M. In the register containing names of persons granted temporary status in accordance with the above O.M., his name should be placed ^{at the last} as on date. He will be entitled to the benefits of the scheme in accordance with that O.M.

11. O.A. disposed of as above. No costs.

W.L.
(C.J. ROY)

MEMBER(J)
27-7-94.
'SRD'

N.V. KRISHNAN
27.7.94

VICE CHAIRMAN(A)
27-7-94.