

9

Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. OA-1640/87

Date: 4.5.1989.

Shri Raja Ram Kumar Sharma Applicant

Versus

Union of India

.... Respondents

For the Applicant

.... Shri R.L. Sethi, Advocate

For the Respondents

.... Shri K.C. Mittal, Advocate.

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri M.M. Mathur, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*

2. To be referred to the Reporter or not? *No*

(Judgement of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice-Chairman)

The applicant, who was engaged as a casual labourer waterman in the Office of the Director, Central Bureau of Investigation, Ministry of Home Affairs, filed this application under Section 19 of the Administrative Tribunals Act, 1985 challenging the verbal order dated 21.8.1987, whereby his services were terminated. The prayer made by him is that the impugned termination be set aside and that the respondents should be directed to accord to him temporary status.

2. The applicant's name was sponsored by the Employment Exchange for recruitment as casual labourer waterman on daily wages from 22.8.1986. His contention is that he worked from 22.8.1986 to 21.8.1987 for a period of 265 days. He has alleged that the respondents have retained in service many of his juniors.

3. The respondents have submitted in their counter-affidavit that the applicant has worked in five spells between 22.8.1986 and 31.8.1987 for a period of 236 days

On

as indicated below:-

Ist spell ..	22.8.86 to 18.11.86	59 working days
IIInd spell ..	24.11.86 to 20.2.87	61 working days
IIIInd spell ..	25.2.87 to 13.4.87	32 working days
IVth spell ..	28.4.87 to 23.7.87	61 working days
Vth spell ..	29.7.87 to 31.8.87	23 working days

Total	236 working days
-------	------------------

4. According to the respondents, the applicant was not engaged against any sanctioned post for work of a regular nature. He was engaged for work of a seasonal nature on daily wages as labourer/water carrier. He did not work for more than six months continuously. Therefore, he cannot be granted the status of a temporary Government servant. They have also denied the allegation that his juniors are still continuing. They have pointed out that the services of two other labourers/water carriers have also been terminated as in the case of the applicant. There was, therefore, no question of juniors being retained.

5. We have gone through the records of the case and have heard the learned counsel for both the parties. The respondents are relying upon the Office Memorandum dated 26th October, 1984 relating to the regularisation of services of casual workers in Group 'D' posts. According to this memorandum, in the organisations observing 5-day week, casual workers may be considered for regular appointment to Group 'D' posts if otherwise eligible, "if they have put in two years of service as casual workers, with 206 days of service during each year (as against the usual 240 days)". The applicant has not given the particulars of the number of days he has worked in 1986 and 1987. We are


an


satisfied that the applicant has not put in two years of service as a casual worker in terms of the Office Memorandum dated 26th October, 1986.

6. The learned counsel for the respondents has relied upon some rulings of the Tribunal and the Supreme Court which, to our mind, are not applicable to the present case.

7. The facts of the case clearly indicate that the applicant was appointed not against a post but was engaged for work of seasonal nature on daily wages. The regularisation of such a person will be governed by the administrative instructions issued by the Government. The case of the applicant does not fall within the criteria laid down in the Office Memorandum issued by the Department of Personnel on 26th October, 1984. There is also no evidence to indicate that the respondents have retained any of his juniors.

8. We, therefore, see no merit in the present application and we are of the opinion that the applicant is not entitled to the reliefs sought for in the application. The application is, therefore, dismissed with the observation that in case the respondents need the services of a person to do the work of a seasonal nature, the applicant should be considered for the same in preference to others. There will be no order as to costs.


(M.M. Mathur)
Administrative Member


(P.K. Kartha)
Vice-Chairman(Judl.)

-
- *1. Shanti Devi Vs. Union of India & Others, A.T.R.1986(2), C.A.T. 155.
2. Surinder Singh & Another Vs. Engineer-in-Chief, C.P.W.D. & Others, A.T.R. 1986, S.C. 76.
3. Shiv Shankar Vs. Union of India, A.I.R. 1985 S.C. 514.
4. Dayal Saran Sanan Vs. Union of India, A.I.R. 1980 S.C. 354.