

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1893/90

199

T.A. No.

DATE OF DECISION 10.4.1992Shri Balbir Singh~~xPetitioner~~ ApplicantShri B.S. RandhawaAdvocate for the ~~xPetitioner(s)~~ Applicant

Versus

Union of India & Another

Respondent

Shri M.L. Verma

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. A.B. Gorthi, 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*
3. Whether their Lordships wish to see the fair copy of the Judgement? *NO*
4. Whether it needs to be circulated to other Benches of the Tribunal?

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

The applicant, who has worked as a casual labourer in the Directorate General of Doordarshan, is aggrieved by the impugned order of termination of his services dated 30.12.1989. He has prayed for his re-engagement and regularisation in a suitable Group 'D' post.

2. On 18.9.1990, when the application came up for admission, an interim order was passed directing the respondents to consider engaging the applicant as casual labourer if vacancies were available in preference to outsiders.

3. We have heard the learned counsel for both the parties and have gone through the records of the case carefully. The applicant has worked as a casual labourer from 1.10.1989 to 31.12.1989. His services were terminated by an oral order. He has stated that his name was sponsored by the Employment Exchange. According to him, after terminating his services, the respondents have resorted to recruitment of casual labourers from the open market afresh. He has challenged this as arbitrary and illegal.

4. The respondents have stated in their counter-affidavit that the applicant was engaged on contractual basis for a specified period and on specific terms of contract. His services were not required beyond the specific period and after that period, his engagement was dispensed with. They have stated that the applicant has no legal right to claim the reliefs sought in the present application.

5. With regard to the contention of the applicant that the respondents have resorted to fresh recruitment, the respondents have submitted that the applicant himself had replaced a batch of casual labourers engaged earlier than him. His claim that he should not be replaced by a newly appointed casual labourer, is not justified.

a

6.° Similar issues had been raised in a batch of applications pertaining to the casual labourers engaged in Doordarshan and the same were disposed of by judgement dated 26.4.1991 to which one of us (P.K. Kartha) was a party (vide OA-2052/89 and connected matters - Shri Rameshwar & Others Vs. Union of India through the Director General, Doordarshan).

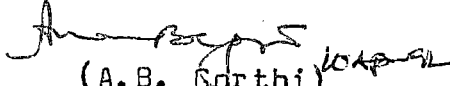
7. In Rameshwar's case, the respondents had raised similar contentions. The applicants in those applications also had been disengaged by oral orders. The Tribunal held that the policy followed by the respondents in engaging one batch of casual labourers and replacing them by another batch, is arbitrary and discriminatory and violative of Articles 14 and 16 of the Constitution inasmuch as there is an element of 'pick and choose' in the pursuit of this policy. There is no rationale or logic in replacing one set of casual labourers who had been engaged after holding a selection from among the candidates sponsored by the Employment Exchange by another set of employees similarly sponsored by the Employment Exchange every three months. As this left scope for arbitrariness, if not corruption, at the level of the Employment Exchange and that of the respondents, it was held that this was impermissible in law. The Tribunal also observed that

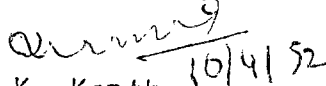
a

in order to make the system of engagement of casual labourers legal and constitutional, it is imperative that the respondents should evolve a rational scheme for regularisation of their services.

8. Following the ratio in Rameshwar's case, we dispose of the present application with the direction to the respondents to allow the applicant to continue to work as casual labourer in ^{their} office as long as there is requirement for casual labourers, pending the framing of a suitable scheme for absorption of the casual labourers, as directed in Rameshwar's case. The applicant should have preference over persons with lesser length of service and outsiders in the matter of continued engagement as a casual labourer. In case the disengagement of some casual labourers becomes unavoidable, it should be on the principle of 'last come, first go'. Till the applicant is regularised, the respondents may not resort to fresh recruitment through Employment Exchange or otherwise. Till he is regularised in accordance with the scheme to be framed by the respondents, the wages to be paid to him should be in accordance with the minimum in the scale of pay of the post held by a regular employee in a Group 'D' post. After regularisation, he should be placed on par with regular Group 'D' employees in respect of his service conditions and benefits.

9. The application is disposed of on the above lines. There will be no order as to costs. The interim order passed on 18.9.90 is hereby made absolute with the aforesaid observations.


(A.B. Gorthi)
Administrative Member


(P.K. Kartha) 16/4/92
Vice-Chairman(Judl.)