

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 2396/90
T.A. No.

199

DATE OF DECISION 16.8.1991

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| Shri Bishamber Singh | Retitioner Applicant |
| Shri Anil Kumar | Advocate for the Retitioner(s) Applicant |
| Versus | |
| Union of India through the Secy., Ministry of Communications & Ore. | Respondent |
| Shri M.L. Verma | Advocate for the Respondent(s) |

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

The Hon'ble Mr. B.N. Dhoundiyal, 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? *No*

(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 office of the respondents since 1.7.1986, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the respondents be restrained from terminating his services, and that they be directed to absorb him in the regular service and grant him temporary status with all benefits.

2. The application was filed in the Tribunal on 19.11.90. On 21.11.1990, the Tribunal passed an interim order directing

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that the status quo as regards the continuance of the applicant as a Casual Labourer, be maintained. The interim order already passed has been continued thereafter till the application was finally heard on 25.7.91.

3. The applicant has filed the present application on the apprehension that his services will be terminated. He has claimed regularisation and absorption in accordance with the scheme prepared by the respondents pursuant to the decision of the Supreme Court in Daily-rated Casual Labour employed under P. & T. Vs. Union of India and Others, 1988 (1) S.C.C. 122.

4. The respondents have stated in their counter-affidavit that the applicant has not exhausted the remedies available to him under the Industrial Disputes Act, 1947, and that no action of retrenchment has been taken so far against the applicant. Whenever it becomes necessary to retrench him, it should be in accordance with the provisions of the Industrial Disputes Act, 1947. He will be retrenched only when there is no work and he is rendered surplus. The respondents have stated that a scheme for grant of temporary status and regularisation of Casual Labourers engaged before 31.3.1985 has come into force w.e.f. 1.10.1989. They have

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stated that the benefit of the said scheme cannot be extended to the applicant as he was engaged after 31.3.1985.

5. We have carefully gone through the records of the case and have considered the rival contentions. In our opinion, there is no merit in the contention of the respondents that Casual Labourers engaged before 31.3.1985 alone are entitled to the benefit of the scheme prepared by them for grant of temporary status and regularisation. The fixing of such a date is not based on any rational ground. The judgement of the Supreme Court in the case of Daily-rated Casual Labour employed under the P. & T. Department, nowhere lays down that only casual labourers who are engaged prior to 30.3.1985, would be entitled to regularisation. The Supreme Court had directed the respondents to prepare a scheme on a rational basis for absorbing "as far as possible" the casual labourers who had been continuously working for more than one year in the Posts & Telegraphs Department. In the instant case, the applicant has continued to work as a casual labourer even at the time of the coming into force of the scheme prepared by them on 1.10.1989. The scheme provides, inter alia, that temporary status would be conferred on all

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casual labourers "currently employed" and who had rendered continuous service of at least one year out of which they must have been engaged on work for a period of 240 days (206 days in a case of offices observing 5 days a week). Such casual labourers will be designated as 'Mazdoors'.

6. In the conspectus of the facts and circumstances of the case, we dispose of the present application with the direction to the respondents that they should consider the suitability of the applicant for regularisation in accordance with the scheme prepared by them pursuant to the judgement of the Supreme Court, mentioned above. The interim order passed on 21.11.1990 directing the respondents to maintain status quo as regards the continuance of the applicant as a Casual Labourer is made absolute.

There will be no order as to costs.

B.N. Dhondiyal
(B.N. Dhondiyal)
Administrative Member

P.K. Kartha
16/8/91
(P.K. Kartha)
Vice-Chairman(Judl.)