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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.773/90

NEW DELHI THIS THE 5TH DAY OF AUGUST, 1994.

HON'BLE SHRI J.P. SHARMA, MEMBER (J)
HON'BLE SHRI P.T. THIRUVENGADAM, MEMBER (A)

Shri Pradeep Kumar
S/o Shri Sampat Raj
House No.27, Shyamganj, Mill Road,
REWARI, Haryana.

....Applicant

By Advocate : Shri Rajinder Singhvi

VERSUS

1. UNION OF INDIA, THROUGH
The Secretary,
Ministry of Tele-Communication
Sanchar Bhavan, New Delhi.

2. Divisional Engineer,
Telegraph,
REWARI.

3. Assistant Engineer,
P.R.X. Rewari.

...Respondents

BY Advocate : Shri M.L. Verma

JUDGEMENT (ORAL)

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

The applicant was initially engaged as daily rated casual labour with the Divisional Engineer, Telegraph, Bewar, Rajasthan in 1983. He continued to discharge function as casual labour Mazdoor with intermittant breaks till 18.04.90 when he was served with a notice that daily rated casual workers are being replaced by regularly inducted mazdoors and that his services are no more required, so he is retrenched and a compensation of Rs.1005/- with one month salary was offered to him. The applicant in May, 1990 filed this present application and, by the order dated 08.05.90 the respondents as an interim measure were directed to re-engage the applicant on duty. It is undisputed that the applicant under the orders of this Tribunal has been working continuously till today.

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2. The respondents contested this application and stated that the applicant was not entitled to the regularisation and that he was offered compensation under Section (f) of I.D. Act 1947 and in view of the decision of the case of Padmavali, the applicant should have sought his remedy under the said Act.

3. We have heard the learned counsel for both the parties and perused the record. The applicant has filed along with application an Annexure, showing the number of days of working since 1983 till 1990. During the course of hearing, the departmental representative present along with Mr ML Verma has also given us a notebook in printed form and we found that the said notebook is actually the original ^{whose} or ^{is} the photocopy of the Annexure-I filed by the applicant. Thus, the period put in by the applicant as casual worker till his engagement on 18th April, 1988 is correctly depicted in Annexure A-1. It appears that the respondents have issued scheme earlier in November, 88 which appears to have been subsequently modified by another scheme of 7th November, 1989. This modified scheme goes to show in Para 5, which is quoted below:-

" 5. Temporary Status

- (i) Temporary Status would be conferred on all the casual labourers currently employed and who have rendered a 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 the case of office observing 5 day week). Such casual labourers will be designated as temporary Mazdoor.
- (ii) Such conferment of temporary status would be without reference to the creation availability of regular Gr D posts."

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Para 4 of the said scheme which is also quoted below is with regard to the regularisation of such casual workers :-

- (a) Vacancies in the Group 'D' Cadres in various offices of the Department of Telecommunications would be exclusively filled by regularisation of casual labourers and no outsider should be appointed to the cadre except in the case of appointments on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility conditions including the educational qualifications prescribed in the relevant Recruitment Rules.

However, regular Group D staff rendered impetus for any reason will have prior claim for absorption against existing/future vacancies.

In the case of illiterate Casual Labourers to regularisation will be considered only against those posts in respect of which illiteracy will not be impediment in the performance of duties.

They would be allowed age relaxation equivalent to the period for which they had worked continuously as casual labour for the purpose of the age limits prescribed for appointment to the Group D cadre, if required.

Outside recruitment for filling up the vacancies in Gr D will be permitted only under the condition when eligible casual labourers are NOT available.

(B) Till regular Gr 'D' vacancies are available to absorb all the casual labourers to whom this scheme is applicable, the casual labourers would be conferred a Temporary Status, as per the details given below."

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4. The objection by the respondents that after the formulation of the aforesaid scheme the applicant does not fulfil the required norms for getting covered under the scheme cannot be sustained since it is not disputed that the applicant was currently employed on the date of issue of the scheme and had put in at least 240 days in the previous 1 year. In view of the above, the application is disposed of with the direction to consider the case of applicant as per the modified scheme issued by the letter dated 7.9.89 with regard to grant of temporary status.

5. In case any of the junior to the applicant with regard to the number of days having been put on casual ^{basis} cases, has been regularised, the applicant should also be considered for regularisation under para 4 of the said scheme quoted above.

6. The applicant shall continue to be engaged till he is regularised subject to the availability of work and further that no junior to the applicant is retained.

7. In the circumstances, the parties to bear their own costs.

P. T. Thiruvengadam

(P.T. THIRUVENGADAM)
MEMBER (A)

J. P. Sharma

(J.P. SHARMA)
MEMBER (J)