

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

....

OA No.948/90

Date of decision 26-7-1990

KAMESHWAR PRASAD

... APPLICANT

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS.

Advocates:

Shri B.N. Bhargava

... for the applicant.

Shri N.S. Mehta

... for the respondents.

CORAM:

Hon'ble Shri P.K. Kartha, Vice-Chairman (J)

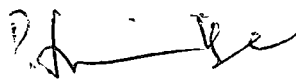
Hon'ble Shri P. Srinivasan, Administrative Member.

J U D G E M E N T

(Judgement of this Bench delivered by
Hon'ble Member Shri P. Srinivasan)

This application has been listed before us for admission today. Both the learned counsel have been heard. We feel that the application can be disposed of on merits at the admission stage itself by issuing suitable directions to the respondents. We proceed to do so.

The applicant contends that he has been working as a casual labourer in the office of ~~the~~^H respondents No.2 w.e.f. 2-6-1985 and continued to be engaged in that capacity upto 2-4-1990.. He further avers that w.e.f. 2-4-1990, he was disengaged on the understanding that



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whenever there was any vacancy in the future, he would be re-engaged. Relying on various judgements of the Supreme Court on the subject of casual labour, the applicant submits, that he should be re-engaged by the respondents because persons junior to him continue to work with the respondents. According to Shri Bhargava, persons who were engaged along with the applicant and who were junior to him have been retained while the applicant's services have been terminated.

Shri Mehta disputed the facts stated on behalf of the applicants. He reiterated the statement in the reply of the respondents that the applicant was engaged only from 23-1-1989 upto 7-7-1989 and again from October, 1989 to 2-4-1990. He denies that his juniors had been retained in service while the applicant had been disengaged. At the same time he stated very fairly that when a vacancy does arise in the office ^{in future}, the applicant would certainly be engaged according to the length of service put in by ^{him} Shri Mehta explained that in the Office of respondent No.2, Casual labour is engaged from time to time to meet the rush of work when some examination has ^{to} be held. A group of persons engaged as casual labourers for that purpose, are continued ⁱⁿ employment till the work connected with ^{that} examination is over. If, simultaneously another examination is to be held, another group of casual labourers has to be engaged, because the persons engaged for the first examination are busy with their work. When the work in connection with the first examination gets over, casual labourers engaged in connection with ^{the} first examination have necessarily to be disengaged, to be reengaged again, when another examination is to be held later. Thus at one point of time, different sets of casual labourers

P. J. - k

will be working in connection with the work thrown up by different examinations being held at the same time. Thus, it was difficult to ascertain the ^Mrelative seniority of casual labourers engaged from time to time.

We have given the matter careful consideration. The ^MStaff Selection Commission is a part of the Department of Personnel and Administrative Reforms. If after the additional work arising out of an examination gets over and casual labourers engaged in this connection have to be discharged, they can be considered for engagement as casual labour in any of the other Wings in the Department of Personnel and not necessarily in the office of respondent No.2. The applicant will have to prove to the respondents by providing adequate evidence that he actually worked as casual labourer from 2-6-1985 and not only from 23-1-1989. The respondents will prepare a list of persons engaged as casual labourers from time to time according to the length of service put in by them in that capacity. This list could be common to the office of respondent No.2 and respondent No.1. When ^M ~~the~~ a casual labourer ^M is dis-engaged because the work in connection with an examination for which he was engaged gets over and he cannot be fixed up as ^M a casual labourer in connection with another examination which is ^M being held ^M soon after, he can be considered for engagement ^M as casual labourer in any other office under respondent No.1 according to his place in the list of casual labourers prepared according to the length of service. The same list should be employed for regularisation in that order as and when such vacancies arise before considering outsiders. In case the respondents find, as alleged by the applicant, that persons ^M ~~and~~ having lesser service as casual labourers ^M have been either retained or re-engaged over looking his claim, then ^M he should immediately be re-engaged on the same terms ^M as in the past. The applicant will furnish details of such persons, if any, to the respondents for this purpose.

T. S. ...

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The application is disposed of on the above terms at the stage of admission itself, leaving the parties to bear their own costs.

P. Srinivasan
26/7/90
(P. SRINIVASAN)
MEMBER (A)

P.K. Kartha
26/7/90
(P.K. KARTHA)
VICE CHAIRMAN