

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL



NEW DELHI

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O.A. No. 2543/91
T.A. No.

199

DATE OF DECISION 2.4.1992

Shri Gopal Singh Achora	xPetitioner Applicant
Smt. Rani Chhabra	Advocate for the xPetitioner(s) Applicant
Versus	
Union of India and Others	Respondent
Shri M.L. Verma	Advocate for the Respondent(s)

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

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? */no*

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

The grievance of the applicant who has worked
as a Waterman on daily wages in the Department of
Telecommunications, relates to his non-regularisation
in a Group 'D' post.

2. On 31.10.1991, the Tribunal admitted the application and passed an interim order directing the respondents to maintain status quo as regards the continuance of the applicant as Peon-cum-Waterman in their office. The interim order has thereafter been continued till the case was finally heard on 30.3.1992.

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3. The applicant has stated that he has worked in the office of the respondents as a Waterman on daily wages initially from 19.4.1989 to 16.7.1989 and thereafter, from 16.7.1989 to 15.10.1990. According to him, he has worked for over a period of three years. The respondents have denied this version of the applicant in their counter-affidavit. According to them, he was a casual, seasonal daily-rated worker. He was engaged only for summer as Waterman on daily wages. They contend that he has never worked for a continuous period of 240 days at any stretch. They have also stated that the applicant was disengaged on 31.10.1990 as no Waterman was required by the respondents after the said date. There is also no post of Waterman-cum-Peon in the office of the respondents.

4. We have gone through the records of the case and have heard the learned counsel for both the parties. During the hearing, the respondents brought to our notice the dates on which the applicant had been engaged in their office from which it is apparent that he has worked for more than 240 days, though with technical breaks. In our opinion, the technical breaks are not to be taken into account for the purpose of considering the entitlement of the applicant to regularisation.

5. The Supreme Court has held in Daily Wages Casual Workers employed in P & T Department vs. Union of India

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and Others, 1988 (1) SCC 1221, that Casual Workers who have worked for 240 days in a year, should be regularised, as far as possible, by making a scheme on a rational basis. The respondents have made a scheme called 'Casual Labourers (Grant of Temporary Status and Regularisation) Scheme in 1989 which came into force w.e.f. 1.10.1989. According to the said scheme, temporary status would be conferred on all casual workers 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 offices observing 5-day week). Such casual labourers will be designated as temporary messengers.

6. In our opinion, the applicant deserved to be considered for regularisation in accordance with the aforesaid scheme, he having worked for more than 240 days in a year as a casual labourer in the office of the respondents.

7. Accordingly, the application is disposed of with the following directions to the respondents to re-engage the applicant as casual labourer in the vacancy in any of their offices. Thereafter, his case for regularisation in a suitable Group 'D' post should be considered in accordance with the scheme prepared by them pursuant to

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the directions of the Supreme Court, mentioned above.

In case he is found eligible and suitable in all respects, he should be regularised in a suitable Group 'D' post.

8. The respondents shall comply with the above directions preferably within a period of three months from the date of communication of this order. The interim order passed on 31.10.1991, is hereby made absolute. There will be no order as to costs.

transcript
2/4/92
(A.B. Gorathi)
Administrative Member

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2/4/92
(P.K. Kartha)
Vice-Chairman(Judl.)