

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL M
 NEW DELHI

O.A. No. 413/91
 T.A. No.

199

DATE OF DECISION 3.5.1991.

Shri Ashok Paswan

xPetitioner Applicant

Shri Jog Singh

Advocate for the Petitioner(s) Applicant

Versus
 Controller, Principal Accounts

Office D/Food, Miny. of Food & Respondent

Civil Supplies & Another

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? Yes
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 office of the respondents, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the respondents be directed to regularise him from the date of his initial appointment to Group 'D' post with all consequential benefits, such as continuity in service, difference in pay on the basis of 'equal pay for equal work' and to continue him in service till regularisation.

2. The application was admitted on 18.2.1991, when the learned counsel for the applicant stated that though the applicant was continuing in service, there was an apprehension that his services might be dispensed with any time. The Tribunal directed that in case any such order of termination was issued, the respondents shall not implement the same and that status quo as regards his continuance as Casual Labourer as of that date, be maintained. The interim order has been continued thereafter till the case was finally heard on 29.4.1991.

3. The facts of the case in brief are as follows. The applicant was sponsored by the Employment Exchange and was appointed by the Accounts Office Headquarters, Department of Food, Ministry of Food and Civil Supplies, from 1.5.1989 to 7.2.1991. According to him, he had worked against a regular and substantive post of Class IV/Group 'D'. He has averred that his work and conduct had been satisfactory and that there had been no complaint about the same from his superiors. He has relied upon the instructions issued by the Department of Personnel on the regularisation of casual employees in Group 'D' posts (vide O.M. dated 13.10.1983, 26.10.84, and 7.5.1985). He has contended that he fulfils the requirements under the aforesaid Office Memoranda for

(5)

the purpose of regularisation in a Class IV/Group 'D' post.

4. The respondents have stated in their counter-affidavit that the applicant was engaged as a daily wager for watering the coolers, etc., and not as a Peon. They have also stated that he was not appointed against any regular post. They have also denied that he fulfills the eligibility criteria for regularisation in a Group 'D' post. As regards the averment in the application that the work and conduct of the applicant had been satisfactory, the respondents have stated that it had been found that he was in the habit of photo-copying the documents of the office in violation of the security measures and security rules. They have also alleged that he left the office on 8th February, 1991 at 12 O'clock and turned up on 13th to collect his wages. When he was asked to give his explanation for leaving the office unauthorisedly, he refused to do so. The respondents have stated that the applicant has worked upto 8th February, 1991 and thereafter, he had not been engaged. He has not ~~xx~~ been engaged for 206 days in each of the two years which is an essential pre-requisite for regularisation.

(6)

5. We have carefully gone through the records of the case and have considered the rival contentions. The applicant has produced photocopies of some of the notings from the relevant departmental file at Annexure-IV to the application at pages 17-19 in support of his contention that he is eligible for regularisation under the office memoranda issued by the Department of Personnel. According to the notings, his total service from 3.5.1988 to 31.10.1988, and 1.12.1988 to 31.03.1989, is 220 days and from 3.4.89 to 31.7.1990, is 331 days against the 206 days in each year of the two years, as required for regularisation under the O.M. dated 7.5.1988 issued by the Department of Personnel. It has also been stated that the applicant is within the age-limit required for Government service in Group 'D'.

6. In our opinion, the applicant fulfils the requirements for regularisation in a Group 'D' post as per the Office Memoranda issued by the Department of Personnel. In two recent decisions, this Tribunal has dealt with in detail the position of casual labourers employed in Central Government establishments (vide *a*)

judgement dated 11.1.1990 in Durga Prasad Tewari & Others Vs. Union of India and Another, 1990 (3) SLJ, C.A.T. 94 and judgement dated 16.2.1990 in Raj Kamal & Others Vs. Union of India, 1990 (2) SLJ 169). In Raj Kamal's case, we have referred to the authoritative pronouncements of the Supreme Court on the subject and have observed that the Union of India should consider the question of formulation of a scheme for absorption of casual labourers who have worked continuously for more than one year. We reiterate the same view.

7. In the light of the foregoing, the application is disposed of with the following orders and directions:-

(i) The respondents are directed to consider the question of regularisation of the applicant in a Group 'D' post in any of the vacancies arising in the Ministry of Food & Civil Supplies, or the Ministry of Food Processing Industries, where the applicant has worked as a casual labourer, or the offices of the said ministries located at Delhi. In case, no vacancies

exist in the Ministry of Food & Civil Supplies and the Ministry of Food Processing Industry and in any of their offices in Delhi, the applicant should be adjusted against the vacancies of Group 'D' staff in other ministries/departments/attached/subordinate offices of the Central Government.

(ii) Till the applicant is regularised as directed in (i) above, he shall be retained as a casual labourer in the office of the respondents. The respondents are also further directed not to induct fresh recruits as casual labourers through Employment Exchange or otherwise, overlooking the preferential claim of the applicant.

(iii) The directions in (i) and (ii) above, are subject to the condition that the respondents have satisfied themselves that the applicant fulfills the requirements for regularisation in all respects.

(iv) The emoluments to be given to the applicant till his regularisation, should be strictly in accordance with the orders and instructions issued by the Department of Personnel and Training. After regularisation, he should be paid the same pay and allowances as a regular employee belonging to Group 'D'

(v) category.

Interim order passed on 18.2.91 is hereby made ^{absolute.}

8. The application is disposed of on the above lines.

There will be no order as to costs.

B.N.Dhundiyal
(B.N. Dhundiyal)
Administrative Member

P.K.Kartha
(P.K. Kartha)
Vice-Chairman(Judl.)