

**Central Administrative Tribunal
Principal Bench**

...

OA No. 2115/2004

New Delhi, this the 8th day of July, 2005

Hon'ble Mr. Shanker Raju, Member (J)

Raja Ram Sharma
S/o Shri Parmeshar,
R/o Qtr. No. 24-A,
Gali No. 1, Sindhi Farm Road,
Meethapur Extension, Delhi.

...Applicant

(By Advocate: Shri M.K. Bhardwaj

-VERSUS-

Union of India & Others through:

1. The Secretary,
Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel & Training,
North Block, New Delhi.
2. The Director,
Central Bureau of Investigation,
CGO Complex,
Block No. 111, Lodhi Road,
New Delhi.

...Respondents

(By Advocate: Shri Rajesh Katyal)

ORDER (ORAL)

Heard the learned counsel for the parties.

2. Earlier the applicant had approached this Tribunal by filing OA No. 2231/1997. This Tribunal, by an order dated 21.4.1998, taking cognizance of the fact that the applicant was initially engaged on 22.8.1986 and had also worked from 11.6.1997 to 11.8.1997, issued directions to the respondents to consider the claim of the applicant for re-engagement over juniors and freshers and once he is engaged, his

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present service and past service shall be counted for according him temporary status initially and subsequent absorption in Group 'D'. The aforesaid decision was carried in appeal in Writ Petition before the High Court of Delhi in CWP No. 216/1989, where findings of the Tribunal have been affirmed by an order dated 10.05.2000.

3. By virtue of the SLP No. 2224/2000 & other connected cases, the issue of accord of temporary status and whether the Scheme for temporary status promulgated by the DOP&T on 10.09.1993 was an ongoing scheme or one time measure, was decided by the Hon'ble Supreme Court by disposing of all these Special Leave Petitions on 29.4.2002 with the following observations:-

"In Civil Appeals Nos. 3170-71, 3172-73, 3174-75 and 3180/2002 arising out of SLP(Civil) No. 6738-6739/2000, SLP (Civil) Nos. 6740-41 and 6742-43/2000 and SLP (Civil) No. 970/2000, the Division bench of the High Court of Calcutta held that the termination of the services of the employees was not legal and was based on various extraneous grounds. We do not propose to interfere with the same.

In Civil Appeals Nos. 3168, 3182, 3179, 3176-78, 3169 of 2002 arising out of SLP(Civil) No. 2224/2000, SLP (Civil) Nos. 13024/2001, SLP (Civil) No. 1563/2001, SLP(Civil) No. 17174-17176/2000, SLP (Civil) No. 2151/2000, the respondents have been given temporary status, even though, they did not specifically fulfill the condition in clause 4 of the Scheme. Some of them were engaged by the Department even after the commencement of the Scheme. But these casual labourers had also rendered services for more than one year and they were not given temporary status pursuant to the directions issued by the Court. We do not propose to interfere with the same at this distance of time. However, we make it clear that the Scheme of .9.1993 is not an ongoing Scheme and the temporary status can be conferred on the casual labourers under that Scheme only on fulfilling the conditions incorporated in Clause 4 of the

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Scheme, namely, they should have been casual labourers in employment as on the date of the commencement of the Scheme and they should have rendered continuous service of at least one year i.e. at least 240 days in a year or 206 days (in case of offices having 5 days a week). We also make it clear that those who have already been given temporary status on the assumption that it is an ongoing scheme shall not be stripped of the temporary status pursuant to our decision."

4. It is no more res integra that the Scheme had been observed to be one time measure and casual workers in position on 1.1.1993 having rendered continuous service of at least 240 days in a year or 206 days (in case of offices having 5 days a week) were found eligible for accord of temporary status and subsequent consideration for regularization.

5. The only exceptions are those in whose favour a temporary status has been conferred pursuant to the directions of the Court despite having not fulfilled condition in clause 4 of the Scheme and another set of employees who had been exempted from purview and directions of the court of one time measure are those who were engaged by the Department after the commencement of the Scheme i.e. 10.09.2003 and had rendered services for more than one year and were not accorded temporary status despite directions of the court, their cases have been proposed not to be interfered at the distance of time.

6. Having regard to the above, on examination of the case of the applicant, though a direction for re-engagement has been issued by the Tribunal as affirmed by the High court, the applicant is yet to be re-engaged and the matter is still under consideration. From the perusal of the directions issued by the Tribunal, the condition precedent for counting previous service was on re-engagement of the applicant. As the

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applicant had not been re-engaged, his past and present service had not been counted. I also find that there is no specific direction of the Tribunal to consider the applicant for temporary status. The only direction was to count the applicant's past and present service on accord of temporary status. Be that as it may, the fact remains that the applicant is not covered in the category of persons who had already acquired temporary status and he is also not in the category of those persons who had rendered one year service post 10.09.1993 and for want of any direction from the Tribunal to consider the case of the applicant for grant of temporary status, the category of the applicant does not come within the exceptional clause. As such, the DO&T OM and the Scheme promulgated would be one time measure for him. Undisputedly, as the applicant was not in position on 1.1.1993, he cannot claim benefit of DOP&T Scheme of 1998.

7. In this view of the matter, at this stage, applicant has failed to establish his case for judicial interference and the O.A. is accordingly dismissed without any order as to costs.

S. Raju
(Shanker Raju)
Member (J)

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