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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

O.A.No. 2570 of 1992.

Date of Decision: 16.8.1993.

Sudesh Kumar & Sanjay Kumar Applicants.

Versus

Union of India & others Respondents.

CORAM:

Hon'ble Mr. Justice S.K.Dhaon, Vice Chairman,
Hon'ble Mr.S.R.Adige, Member(A)

For the applicant: Shri M.L.Chawla, Counsel.

For the respondents: Shri Raj Kumari Chopra, Counsel.

JUDGMENT

(By Hon'ble Mr.S.R.Adige, Member(A))

The applicants Sarv Shri Sudesh Kumar and Sajay Kumar have, by this application, prayed for reinstatement in service with effect from 17.9.92; regularisation against vacant post, and payment of arrears of salary, along with difference in wages between the daily rate paid to them, and the wages they were allegedly entitled to receive on the basis of monthly rates of pay, after completing 412 days like other regular D Group employees.

2. The applicants aver that they were engaged as Casual labourers in the office of respondent no. 3 (Deputy Director(North), Central Hindi Training Institute, Department of Official Language, Ministry of Home Affairs, Govt. of India) w.e.f. 29.5.89 and 12.6.89 respectively, and although no formal order of appointment was issued, they continued uninterruptedly in service till 17.9.92 on which date their services were orally terminated. They thus claim that they had put in 1039 and 987 working days' service respectively and are, therefore, entitled to be considered for regularisation in accordance with the extent policy, whereby a casual labourer who has put in more than 412 days of service where there is a five-day week, is to be considered for regularisation.

Both the applicants state that they were duly registered with the Kamla Market Zonal Employment Exchange. They also allege that the jobs assigned to them are still in existence, and the posts are lying vacant, against which they can be regularised.

3. The respondents have contested this application and aver that the applicants were engaged on daily wagebasis for specific work. When that work was completed, the applicants services were disengaged. Since this was not a regular appointment, no formal order either for their engagement or dis-engagement was required to be issued. It has further been averred that the names of the applicants were not sponsored by the Employment Exchange and in view of the Government of India's guidelines for regularisation of casual labourers, such employees who were not taken through Employment Exchange cannot be regularised. It has also been asserted that a daily wager has no right to claim regular service, because they were not engaged against regular posts, but for specific job for a limited period only, and when the job was completed, they were dis-engaged.

4. We have heard Shri M.L.Chawla, learned counsel for the applicants and Ms. Raj Kumari Chopra, learned counsel for the respondents. We have also perused the material on record, including the concerned file of the Central Hindi Training Institute (C.H.T.I.). Both sides have referred to various C.A.T. and Supreme Court's rulings in support of their rival contentions.

5. It is well settled that sponsorship by the local Employment Exchange is one of the conditions before which any person can be considered for regularisation. In their application, the applicants have no doubt claimed that they were registered

with the Kamla Market Zonal Employment Exchange and have also filed certified copies of their registration cards (the originals were shown to us during hearing), but that does not necessarily mean that the applicants' names were already sponsored by the Employment Exchange in response to a requisition sent by the respondents for engagement as casual labourers. In fact in the notings at page 26 of the C.H.T.I file, it has specifically been stated that the two applicants were not sponsored by the Employment Exchange, and in the list of names of candidates sponsored by Employment Exchange also, which is placed on that file, their names do not figure. There are also certain material differences between the two parties on other relevant facts. The applicants claim that they have put in 1039 and 987 working days' service respectively, while from the yearwise statement of the number of days of service put in by the applicants which is on the C.H.T.I file, it appears that they had put in 600 and 557 working days' service respectively. Moreover, while the applicants contend that vacancies are still available against which the applicants can be regularised, the respondents aver that all the available posts have been filled, and no vacancy exists.

6. In the absence of a detailed examination of the relevant records, it is not possible to arrive at a definite finding on each of these disputed facts. However, we would like to give the applicants an opportunity to move the respondents with a prayer for regularisation, along with such evidence as is in their possession, in support of their prayer. The respondents will consider the prayer for regularisation in the light of the extent rules, the availability of

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vacancies in C.H.T.I and in accordance with law, and dispose of the same by means of a reasoned, speaking order within three months of receipt of a copy of this order. While doing so, they will also apply their minds to the prayer for relaxation of age, if made by the applicants, because it appears that in the meantime the applicants have become overage for recruitment to ~~govt~~ service in the normal course.

7. Meanwhile we are informed by the parties that pursuant to the interim order dated 30.9.92, directing the respondents as casual labourers in preference to the persons having lesser length of service and outsiders in case the services of such workers were required, the applicants have been re-engaged since June, 1993 and are continuing as such. These interim orders are made absolute, that is the respondents will continue to engage the applicants as casual labourers as long as they require the services of the applicants, in preference to persons having lesser length of service and outsiders.

8. This application is disposed of accordingly in terms of the above directions.

Mr/dig.
(S.R.ADIGE)
MEMBER(A)

S.K.D
(S.K.DHAON)
VICE CHAIRMAN.

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