

8

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

DA.2516 of 1993

and

MA.1473 of 1994

Dated at New Delhi, this the 12th day of July, 1994

Hon'ble Shri J. P. Sharma, Member (J.)

Hon'ble Shri B. K. Singh, Member (A)

1. Shri Chander Bhan
R/o 164, Edward Square
Gole Market
NEW DELHI-110001
2. Shri Naresh Kumar
R/o C/o Shri Ram Chand Sharma
H.No.L-203, Sewa Nagar
NEW DELHI-110003

... Applicants

By Advocate: Shri D. R. Gupta

Versus

Union of India through

1. Secretary
Ministry of Petroleum
and Natural Gas
Shastri Bhawan
Dr Rajendra Prasad Road
NEW DELHI

... Respondent

By Advocate: Shri Madhav Panikar

O R D E R
(Oral)

Shri J. P. Sharma, M(J)

Applicants, S/Shri Chander Bhan and Naresh Kumar have jointly filed this application for the common reliefs that they were engaged as casual labourers in the Ministry of Petroleum and Natural Gas, in April, 1992 and their services were dispensed with by an unwritten order w.e.f. 15.10.93 in spite of the fact that junior to the applicant, Shri Raj Singh was retained. They filed this application in December, 1993 praying for the reliefs that the order of discharge from service dated 15.10.93 be declared illegal being violative of the O.M. issued by the

Contd...2

9

Ministry of Personnel dated 10.9.93, a copy of which is enclosed as Annexure-I and for a further direction to the respondents to reengage them as casual workers and consider them for regularisation and grant of temporary status in accordance with the scheme circulated by the aforesaid O.M. of Department of Personnel and Training, with all consequential benefits.

2. The respondents contested this application and stated that the applicants did not qualify for grant of temporary status in view of the O.M. dated 10.9.93 as the total number of days put in by them was not 240 days or 206 days in a calendar year. They have worked on different posts from April, 1992 to October, 1993 and they were discharged when no work was available. Regarding Rajbir Singh, it is stated that he has put in more than 206 days in the calendar year 1993 and was granted temporary status in accordance with the OM. dated 10.9.93 and so the case of Shri Rajbir Singh materially differs from the case of the applicants. The applicants are, therefore, not entitled to any relief.

3. In MA.1473/94, the applicants have submitted further regarding number of days having put in by the applicants and pray that this additional plea be also taken into account while disposing of the application. It is stated that the engagement of fresh

Contd...3

2

casual labourers after making requisition from the Employment Exchange is violative of Article 14 and 16(1) of the Constitution and the aforesaid O.M. dated 10.9.93, and that the applicants should be because of their preferred/ having put in a good number of working days with the respondents as compared to freshers from the open market. It shall also be unequitable, unfair and unjust to replace the applicants by taking fresh hands.

4. The respondents have also contested the MA repelling the contentions raised by the applicants and stated that the name of the present applicants were not sponsored by the Employment Exchange and thereby they were not engaged in the current season.

5. We have given a careful consideration to the arguments advanced by the learned counsel for the parties. The scheme prepared by the Department of Personnel and Training should be followed by all the departments mentioned therein in letter and spirit. The learned counsel for the applicant wants to interpret certain phrases used in this scheme in a particular manner while the learned counsel for the respondents restricted operation of the scheme on award of temporary status to those casual labourers who have put in minimum of 240/206 days in a calendar year. There is also material difference in regard to

number of working days put in by the applicants as per calculation shown by the rival parties. However, we do not want to interpret in microscopic conception the words used in the OA and the respondents ^{have} to follow it in letter and spirit after getting clarification from the Ministry concerned whether the number of days required for a casual labour for grant of temporary status is 240/206 days in one calendar year ^{or} ~~is~~ a total period before considering this case for award of temporary status. It is expected that the respondents shall be uniform in considering casual labourers those who have put in a number of days of work with them, and those who have not acquired a lien on any post deserve a favourable consideration for reengagement whenever a job is available with the respondents. The respondents are expected not to enter into hire-and-fire policy and if they have engaged at any point of time either it should be continued when the required job is there and should not be replaced by any other employee of lesser experience than that of the applicants.

6. In view of the facts and circumstances of the case, the present application is disposed of with the following directions:


- (i) The respondents shall get the clarification of the OM. dated 10.9.93 of Department of Personnel and Training regarding scheme of casual labourers for grant of temporary

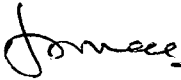
12

status and regularisation in respect to para-4(i) of the said O.M. whether 206/240 are required in one calendar year or the total length of service put in by such casual labourers, with them.

- (ii) The applicants who had already worked with the respondents for a number of days in the year 1992 and also in 1993 may be considered for engagement in preference to freshers sponsored by the Employment Exchange and persons who have put in less number of days of work with them as on 15.10.93. whenever there is job requirement in the concerned discipline, the applicants may be adjusted.

7. The application is disposed of accordingly but without any order as to costs.


(B. K. Singh)
Member (A)


(J. P. Sharma)
Member (J)

dbc