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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.2545/93
M.A.3564/93

New Delhi, This the 8th Day of September 1994

Hon'ble Shri C J Roy, Member(J)

Hon'ble Shri P. T.Thiruvengadam, Member(A)

1. Hari Chand son of Shri Ram Saran
r/o House No.194, Nai Mangolpuri
New Delhi.
2. Dhirender Singh,
Peon, Department of Women &
Child Development, Shastri Bhawan
New Delhi.

..Applicants

By Shri A K Bhardwaj, Advocate

Versus

Union of India Through

1. The Secretary
Ministry of Human Resource Development
Shastri Bhawan
New Delhi
2. Under Secretary
Govt of India, Deptt of
Women and Children Development,
Ministry of Human Resources & Development

...Respondents

By Shri M K Gupta, Advocate

O R D E R(oral)

Hon'ble Shri P.T.Thiruvengadam, Member(A)

1. Applicants filed MA 3564/93 for joining together.
MA is allowed. The applicants were engaged as
casual labourers in Feb 93 in the Department of Women
and Children Development, Ministry of Human resources
and Development. In September 1993 when they were
informed that their services may be terminated they
approached the Tribunal in OA 2052/92 and 2055/93
which were decided on 30.9.93. The operative portion
of the order reads as under:

"para 3 . In OA No.2055/93, preferred by Dhirender
Singh, the averment is that he has put in 231 days'
service in one particular year with the respondents.
In OA 2052/93, the applicant Hari Chand has averred

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that he has put in 228 days' service with the respondents.

Para 4

To the original Applications, true copies of a Scheme have been filed as Annexures. We have perused the terms of the Scheme. If the petitioners were in service on 1.9.1993 and have put in 206 days' service in the case of offices observing five-days' week, the respondents shall not terminate their services by an oral order. If they decide to terminate the services of the petitioners, they shall pass orders in writing with reasons as to why the benefit of the Scheme has not been given to them.

Para 5

With these observations, the applications are disposed of finally."

2. Subsequently termination notices dated 18.11.93 were issued to the applicants by which the services were terminated by giving one month notice. This OA has been filed with the following prayers:-

- (a) to quash the order No.3-6/93 Gen. dated 18.11.93, passed by the respondent No.2 (Annexure A).
- (b) to declare the act of the respondents in conferring temporary status upon the applicants for a limited period and not conferring the same absolutely as illegal and arbitrary.
- (c) to declare the act of respondents in not conferring absolute temporary status upon the applicants as illegal.
- (d) to mandate the respondents to continue engaging the services of the applicants as casual/ temporary Group D employees in preference of the juniors and outsiders.

(e) To direct the respondents to consider the applicants for regularisation of their services as group 'D' employees with all consequential benefits."

3. The learned counsel for the applicant assails the termination order on the following grounds:-

(i) Even the order regarding confirmation of temporary status issued in pursuance of the earlier orders passed by this Tribunal on 30.9.93 bring out the mala fide of the respondents ⁱⁿ that the ^{states} orders, ⁱⁿ that temporary status is confirmed with effect from 1.9.93 and "until further orders". It was argued that the phrase until further orders reveals the mind of the respondents who had been waiting for an opportunity to terminate the services and accordingly ~~on~~ immediately thereafter terminated the services vide notice dated 18.11.93.

(ii) A number of juniors have been retained in preference to the applicants, subsequently. The name of one Shri Datta Ram was referred to and also the list of casual labour workers with temporary status "26 numbers" as per Annexure D was referred and it was mentioned that all these 26 casual labourers are still engaged in preference to the applicants.

4. The learned counsel for the respondents admitted that the phrase "until further orders" in the order confirming temporary status need not have been included and has in no way affected or prejudiced the applicants. We agree with this explanation.

5. As regards the alleged continued engagement of juniors the learned counsel for the respondents stated that Shri Datta Ram's services have been terminated in Oct 93 itself. With reference to Annexure D to OA it has been mentioned that these 26 casual labourers

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with temporary status are seniors to the applicants as can be seen from the date of confirmation of temporary status namely 27.10.93 in contrast to the date of confirmation of temporary status of 8.11.93 to the applicants. Hence it has not been established that any juniors to the applicants have been retained.

6. It was admitted that the applicants have now been re-engaged and they have also been getting monthly rate of pay. In the circumstances the only direction that can be passed is that the applicants should be considered for regularisation in Group D as per the Scheme which has already been evolved by the Department.

7. With the above direction the DS is disposed of.

No costs.

P. T. Thiruvengadam

(P.T. THIRUVENGADAM)
Member (A)
8-9-94

LCP

C. J. Roy
(C. J. ROY)
Member (J)
8-9-94