

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO. 420 OF 1996

Allahabad, this the 4 th day of May, 1999.

CORAM : Hon'ble Mr. S.K. Agrawal, Member(J)

Krishnanand Dubey,
S/o. Ram Prakash,
R/o. 589 Mumfordganj,
Allahabad. Applicant

(C/A. Sri Anupam Shukla, Advocate)

Versus

1. The Union of India through its Superintendent, Post Offices, Allahabad Division at Allahabad.
2. The Post Master General, Allahabad at Allahabad. Respondents

(C/R. Shri S.C. Tripathi, Advocate)

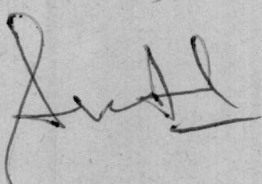
ORDER

(By Hon'ble Mr. S.K. Agrawal, Member(J))

In this original application applicant makes a prayer to direct the respondents to confirm temporary status to the applicant from the date on which his juniors were granted and to direct the respondents to enhance the working hours of the applicant from seven hours to eight hours and to pay the allowances and other benefits to the applicant from the date on which his juniors were allowed with arrears.

2. The facts of the case as stated by the applicant are that the applicant was appointed as contingent paid waterman in Kutchhery Road Post Office, Allahabad w.e.f. 1-10-79 on monthly allowance of Rs.120/-. It is stated that applicant had also worked as contingent paid employee in the said post office w.e.f. 1976. It is stated that the contingent paid employees junior to him were given temporary status, but the applicant was not given. The details of those persons are given in para-4 of the application. The applicant filed representation but with no result. It is stated that by discriminating the applicant with others the conduct of respondents are violating of the Article 14 and 16 of the Constitution of India, therefore applicant sought relief as prayed for.

3. Counter was filed. In the counter it is admitted that the applicant was engaged for five hours duty as Contingent Paid Waterman from 1-10-79 and his appointment was not confirmed. The applicant was a part time casual labourer, therefore temporary status was not confirmed upon him. No record is available for the period of 1976 when the applicant has purported to have worked as Contingent Paid employee in the said post office. The respondents have also denied any hostile discrimination made to the applicant as stated by the applicant in para-4 of the original application and stated that this original application is devoid of any merit and liable to be dismissed.

 4. Rejoinder was also filed, reiterating the facts stated in the original application.

5. Heard the learned lawyer for the applicant and learned lawyer for respondents and also perused the whole record.

6. It is settled law that casual labourer has no right to a particular post. He is neither a temporary govt. servant nor a permanent govt. servant. Protection available under Article 311 does not apply to him. His tenure is precarious, his continuance is depend on the satisfaction of employer. The temporary status conferred upon him by the scheme only confers him those rights which are spelt out in clause-V. A daily rates casual labourer does not ifso facto gets a right of continuance. His right of continuance is subject to availability of work and satisfactory performance and conduct.

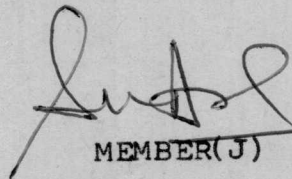
7. A casual labour can be regularised only after selection as per scheme framed by the department. Merely long service as casual labour cannot make one a regular hand.

8. In the instand case admitedly the applicant was a contingent paid casual labourer and he was not a full time casual worker. In other words the applicant was simply part-time worker engaged as Waterman. In Secretary of Ministry of Communication Vs. Sukhbai 1997 (II) SCC 224 it was held that part-time casual labour has no right to hold the civil post and not covered under the scheme of confirming temporary status. In view of the law laid down by the Apex Court of this country the applicant is not entitle to be confirmed temporary status as he was employed as part-time casual labourer.

9. As regards hostile di srimination is concerned applicant failed to establish this fact by cogent and believeable evidents. The contention of the applicant

that the junior to the applicant were confirmed temporary status and are getting regular scale of pay cannot sustain in the facts & circumstances of this case.

10. On the basis of the discussion as above, applicant fails to make out a case in his favour, therefore, this original application is dismissed with no order as to costs.


MEMBER(J)

satya/