

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD

Original Application No.1294 of 1998

Tuesday, this the 13th day of May, 2003

Hon'ble Mr. Justice R.R.K.Trivedi, V.C.

Harpal aged 30 years
Son of Sri Ganga Ram
Resident of Village
Gangrora Piparia
P.O. Bhojipura,
District Bareilly.

..... Applicant.

(By Advocate : Shri R.D.Agarwal)

VERSUS

1. Union of India through the Commissioner Employees Provident Fund Organisation, Government of India Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi - 110066.
2. Regional Provident Fund Commissioner Fund Bhawan, Sarvodaya Nagar, Kanpur.
3. Assistant Provident Fund Commissioner 35-V-3 Rampur Bagh, Bareilly.

..... Respondents.

(By Advocate : Shri N.P.Singh)

ORDER (ORAL)

By Hon'ble Mr. Justice R.R.K.Trivedi, V.C.

By this OA filed under Section 19 of A.T. Act, 1985, the applicant has prayed for a direction to respondents to absorb him as Safai-wala vice clear vacancy instead of paying the wages through Care-taker.

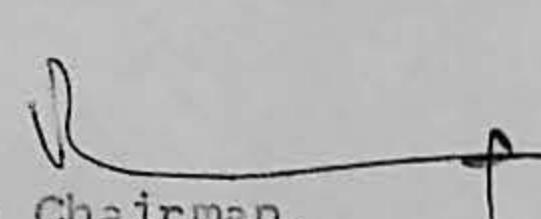
Contd...2.

2. It is claimed that the applicant is working as Safaiwala since 19.01.1995 which has not been denied by the respondents. It is stated that post was advertised in 1997 but applicant did not apply for his regular appointment. The selection proceedings were completed and the candidate was selected but he did not join, hence applicant was allowed to continue on the post. Annexure A-6 is letter dated 10.03.1997, which was issued by Regional Provident Fund Commissioner Kanpur, addressed to Officer Incharge. Sub Regional Office Bareilly, it shows that information was collected about each persons who had actually worked for more than 220 days as on 31.12.1996. The subject matter of consideration, as mentioned in this letter, was regularisation of Casual Worker on daily wages. It is not disputed that as on 31.12.1996 the applicant had served for more than about 2 years and he had working experience for more than 220 days. In the circumstances, the claim of the applicant for regularisation was according to the steps taken by the respondents. The matter has not been concluded. In paragraph 6 of the counter it has been stated that the applicant is not honest and fair as he has taken out the officials record from the files while working as Safaiwala and took them out of office without permission to obtain photocopies. The basis for this allegation appears to be ~~on basis of~~ some copies of the record, filed by applicant as Annexure A-6, 7, 8 & 9 which helped him in his claim. This allegation has been made against the applicant for the first time in the counter. The applicant has been denied



the right of regularisation which he is entitled under the rules. If there was any misconduct on the part of the applicant the respondents were free to take action against him. In absence of which no reliance can be placed for such allegation. On the facts admitted in the counter the applicant has worked since 19.01.1995 and he had worked more than 220 days and acquired temporary status.

3. In the circumstances, the applicant is entitled for a direction. The O.A. is disposed of finally with a direction to respondent Nos.2 & 3 to grant temporary status to the applicant with immediate effect and consider his case for regularisation, in view of the order dated 19.02.1997 passed by Central Provident Fund Commissioner, Kanpur as mentioned in the letter dated 10.03.1997 issued by respondent No.2. The exercise for regularisation shall be completed within four months from the date copy of the order is filed before Copetent Authority in accordance with rules. No order as to costs.


Vice Chairman.

EKM/