

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.209 of 2001.

Allahabad this the 01st day of November, 2004.

Hon'ble Mr. D.R. Tiwari, Member-A.

Mohd. Mukhtar S/o Mohd Mustafa,
R/o Samodhpur, District Jaunpur.

..... Applicant.

(By Advocate : Sri S.K. Dey/
Sri S.K. Mishra)

Versus.

1. Union of India
through the Secretary,
Ministry of Finance,
Central Board of Direct Taxes,
New Delhi.
2. The Chief Commissioner of Income Tax,
Lucknow.
3. The Commissioner of Income Tax,
Allahabad.

..... Respondents.

(By Advocate : Sri Saumitra Singh)

O_R_D_E_R

By this O.A., filed under section 19 of Administrative Tribunals Act 1985, the applicant has prayed for issuance of a direction to the respondents to grant temporary status on completion of 206 days of working alongwith entire privileges of regular scale of pay, D.A., H.R.A, CA, increments etc. on attainment of temporary status.

2. Briefly stated, the applicant entered in service as Casual Labour on 01.01.1993 in the office of Commissioner of Income Tax, Allahabad and worked for 243 days in 1993, 255 days in 1994, 222 days in 1995, 256 days in 1996 and 72 days at Varanasi upto April 1997 and thereafter

Dewa

he was transferred to Jaunpur vide order dated 13.05.1997 and there he worked from 19.05.1997 and since then he continued in service with the entire satisfaction to his superiors. He was given working days certificate, which is at Annexure A-1. Though he was a casual labour still he was being paid daily rate of Rs.50 per days whereas he became entitled for regular scale of pay. He made representation for grant of temporary status but failing to get the favourable response he filed O.A. No.155 of 1998 and Tribunal by its order dated 25.08.2000 (Annexure A-4) directed the respondents to decide the representation by passing a reasoned and speaking order. Accordingly, he submitted representation to the Competent Authority and the respondent No.3 rejected his representation vide order dated 13.11.2000, which is annexed as Annexure A-5.

3. The impugned order has been assailed by the applicant on various grounds mentioned in para 5 and its sub paragraphs. The main ground taken by the applicant is that as per the provisions of the grant of temporary status he has completed 240 days of working as such he has submitted that his O.A. deserves to be allowed.

4. The respondents, on the other hand, have resisted the O.A. and contested the claim of the applicant by filing a counter affidavit. It has been argued that the applicant, though he was in service on the date of issue of memo dated 10.09.1993 for the grant of temporary status to Casual Labour, but he had completed one year regular service on the date of issue of the said memo and thus he is not entitled for grant of temporary status. It has been submitted that he had worked only for 09 months and did not complete one year regular service i.e. 240 days or 206 days on the date of issue of the memo dated 10.09.1993. They have made specific averment in para

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9 of the C.A. that the applicant has been working as Casual Labour in the department since January 1993 and is working in Income Tax Office Ward Jaunpur since 19.05.1997 as Casual Labour on daily wages, as such he is not entitled for grant of temporary status as per provisions of scheme in this regard.


5. I have carefully considered the rival submissions of the parties and perused the record.

6. During the course of discussion, the learned counsel for the applicant could not demonstrate that the applicant had worked for the requisite number of days continuously so as to make eligible for grant of temporary status. There are two conditions which should be fulfilled for grant of temporary status to the Casual Labour namely he should have worked for 240 days and 204 days (in case of five days week) and the employee should be in employment on the date when the Circular regarding the scheme of temporary status came into existence.

7. The question which arises for decision is the validity of Annexure A-5 issued by the respondents rejecting the representation of the applicant. The impugned order at Annexure A-5 is well reasoned and speaking order. There is no justification to call in question this order and the O.A. is liable to be dismissed.

8. In the result, the O.A. is devoid of merits and is accordingly dismissed. I do not find any justification to interfere the impugned order which is just and legal.

No costs.


Member-A.

Manish/--