

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Allahabad this the 8th day of March 1995

Hon'ble Mr. S. Das Gupta, Member(A)
Hon'ble Mr. Jasbir S. Dhaliwal, Member(J)

Original Application No. 159 of 1988

Hari Sharan S/o Sri Dushasan Singh, R/o Mohalla
House no. 2578, Gali No.8 Naya Nagha, Tehsil &
District Mathura

Applicant.

By Advocate Shri B.D. Maurya

Versus

1. Union of India through Secretary, Ministry of Information and Broadcasting, New Delhi.
2. Station Director, All India Radio Station, Mathura.

Respondents.

By Advocate Shri Prashant Mathura

Original Application No. 160 of 1988

CH D E R
Prem Singh S/o Sri Ramji Lal R/o Mohalla Arjunpura
Big Gate Tehsil and District Mathura

Applicant

By Advocate Shri B.D. Maurya
Versus

1. Union of India through Secretary, Ministry of Information and Broadcasting, New Delhi.
2. Station Director, All India Radio Station, Mathura.

Respondents.

By Advocate Shri Prashant Mathur

O R D E R

By Hon'ble Mr. Jasbir S. Dhaliwal, Member(J)

Through this common judgement, we ~~do~~
propose to dispose off two petitions registered
as O.A. No. 159 of 1988 and O.A. No. 160 of 1988

as the facts are similar and questions of facts and law involved are the same.

2. In case of Sri Hari Sharan and Shri Prem Singh in O.A. No 159/88 and O.A.No.-160/88 respectively, it has been pleaded that they had worked as a Casual Labour from 01.3.1987 to 20.12.1987 on daily wage basis at the rate of Rs.12/- per day in the office of respondent no.2. It is pleaded that Sri Hari Sharan was a member of scheduled caste and services of both these petitioners had been continuous and without any break. Copy/ Extracts from the Peon Book have been attached with the petitions. Thus, it is pleaded that both had worked for more than 240 days and acquired the status of "regular service". Services of both were terminated on 03.12.1987 being orally informed that their services were no longer required. They filed applications with the respondent no.2 for keeping them in service but, he refused to entertain the same, saying that whenever their services are required, they will be informed. It is, further pleaded that after their removal three other persons were given employment by respondent no.2. They plead that their removal is motivated, malafide, illegal and against the statutory provisions of law. Both have prayed for a direction from the Tribunal to the respondents to

treat them in continuous service, to allow them to be in regular service and pay them salary w.e.f. 03.12.1987 with all allowances and benefits admissible to regular employees.

3. The respondents in reply to petition of Shri Hari Sharan have pleaded that he had worked for 29 days each in the months of March, April and May, 1987, for a total period of 87 days only which can be called continuous. Thereafter, he never worked continuously but, was engaged only whenever exigencies arose. In case of Shri Prem Singh, the respondents have pleaded that he had worked only between 23rd April 1987 to 30th May, 1987 for a total of 37 days in all beyond that he had never worked. It is pleaded that the certificate given by a Senior Officer to the petitioners apparently was given on their request on the pretext that they wanted to seek employment elsewhere. It were apparently issued on good faith and are not in confirmation with the office records. It is further pleaded that for consideration of regularisation of services of a casual labour, it is essential for such labour to do the work for 240 days in two consecutive years continuous service. It is pleaded that the petitioners do not

fulfil these requirements. The petitioner Hari Sharan used to come to the respondents office for finding out the availability of work and some times was entrusted with some casual work by the Daftari in order to help him. The job of casual labour and his engagement comes to an end everyday and the petitioner had been given a clear understanding that they will be removed from casual work without assigning any reason. Their engagements was dependent upon availability of casual nature of work. There is no vacancy nor any work of casual nature is now available and, therefore, they were not employed. Prem Singh did not even approach the respondent no.2 after 30th May, 1987 for any job and his candidature was not even sponsored by any employment exchange. On the basis of these pleadings, they have prayed for dismissal of the petitions.

4. A perusal of enclosure no.1 to petition no. 159/88 shows that it is a certificate issued on 26.10.1987 showing that petitioner Hari Sharan had worked from 1st March, 1987 to 30th May, 1987 on daily wage basis only. If, he had worked between 30th May, 1987 and the date of issue of this certificate

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it would not have been difficult to mention that also in it. That supports the plea of the respondents that annexure no.5 issued by Station Director may have been issued out of sympathy. Even otherwise annexure A-5 does not indicate the period of engagement of the petitioners but, mentions only that "he" was known to the Station Director for 6 months. Annexure 2, 3 and 4 also do not support the claim of the petitioner of continuous service. It shows only the conditions of service, conveyed to Shri Hari Sharan. The extract of the Peon Book are of different dates showing that on some occasions some work was taken from him which dates are separated from ~~each other~~ each other by a number of days.

5. In case of Shri Prem Singh Annexure-1 is dated 29.10.1987 though mentioning in it is period of work as 90 days, otherwise all other facts and annexures are just like that of Shri Hari Sharan and the same conclusion is arrived at.

6. The learned counsel for the petitioners was at complete loss to show us any

rules which entitle the petitioners for consideration of regularisation of their service even ~~other~~ on the basis of alleged service 240 days. It has been convincingly shown to us that both the petitioners have not worked continuously for more than 90 days. The respondents have placed on record annexure C.A.-2, a letter dated 4th July, 1986 issued by the Directorate General, All India Radio, Government of India, wherein it was circulated that having the minimum of 2 years continuous service[@] as casual labour, would be deemed to have "long experience" in terms of the earlier letters issued by the Government in 1961, 1966 and 1969. It is clarified in it that atleast 240 days as casual labourer in a callendar year would be deemed to constitute "Continuous service". It is further clarified in it that the casual employees who were recruited in various ministries/departments before 21.3.1979 may be considered for regularisation in Group 'D' post if, found otherwise eligible who had put in atleast 240 days of service during each of two preceding[@] years(4 years in the case of part time casual workers). Reading of these documents shows that for a casual

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employee to be considered for regularisation in service, atleast 240 days of service during each of 2 preceeding years is a condition precedent. None of the applicants before us qualifies on that score.

7. Consideration of all the documents on record and the submissions made, show that these petitions have no merit and both are dismissed as such ~~without~~ without any order of costs. Copy of this judgement be placed on the file of O.A.No.160 of 1988 also.

J. M. M.
/M.M./

J. M. M.
Member (J)

J. M. M.
Member (A)