

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO.1726 OF 1993

Allahabad, this the 16 th day of April, 1999.

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

Hari Shanker Prasad, son of Shri Manik Chand,
R/o. Village Chhituw P.O. Choubeypur,
District Varanasi.Applicant.

(By Shri N.N.Lahiri, Advocate)
& Shri H.S.N.Tripathi, Advt.)

Versus

1. Union of India, through Senior Superintendent,
R.M.S. 'A' Division, Allahabad.

2. Sub-Record Officer, R.M.S. Varanasi.

.....Respondents

(By Shri N.B.Singh, Advocate)

O R D E R

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

In this original application applicant sought relief to regularise the services of the applicant.

2. In brief the facts of the case as stated by the applicant are that the applicant was engaged as casual labour in R.M.S. Varanasi on 6-6-1981 and worked for 369 days continuously, thereafter artificial break was shown upto 28-9-1982. It is stated that applicant worked 20 days in Sept '83, 19 days in Aug '84, 9 days in Feb '85, 13 days in March '86, 21 days in Oct '87, 27 days in May, 1988, 12 days in Nov '89, 22 days in Feb '90, 22 days in Aug '91, 9 days in March '92, and after

contd.../2p

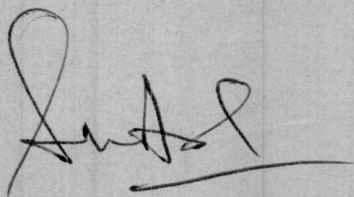
March, 1992 no work was allotted to the applicant.

In this way, the applicant worked for 543 days from 1981 to 1992. It is stated that no certificate of work was issued to the applicant. The case of the applicant is mainly that he worked for more than 240 days, therefore according to rules he is entitled to regularisation for Group 'D' post.

3. Counter was filed. It is stated that the applicant is not entitled to regularisation. Applicant has filed this petition after inordinate delay, therefore liable to be dismissed as barred by limitation. It is stated that the applicant was not approved/ sponsored Mazdoor by Employment Exchange like others therefore he was not engaged as casual labour after March, 1992. There is no record available to show that the applicant requested for working certificate and he was not given. It is stated that according to the certificate issued the applicant worked only for 369 days between 6-6-81 to 28-9-82 and according to the instructions a casual labour who has completed 240 days during each of two preceding years and his name is sponsored by Employment Exchange can be considered for regularisation, therefore applicant has no case and this application is devoid of any merit and liable to be dismissed.

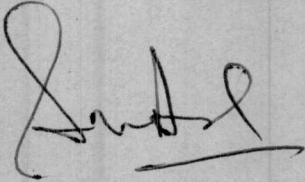
4. Rejoinder was filed reiterating the facts stated in the original application.

5. Heard the learned lawyer for the parties and learned lawyer for respondents. The applicant was a daily rated casual labourer. It is settled law that a casual labourer has no right to a particular post. He is neither a temporary Govt. servant nor a permanent Govt. servant. The protection given by Article 311



does not apply to the casual labourer. He is asked to do a job on daily wage basis. His tenure is precarious. His continuance is depend on the satisfaction of the employee. A temporary status is confirred upon him by the scheme only which confers on him those rights which are spelt out in Clause 5 namely Wages at Minimum of scale for Group 'D'. Benefits of increment would be taken for prorata wages annually, leave entitlement and certain other privilages. A daily rated casual labourer does not ipso-facto get a right of continuance. His right of continuance is subject to the work available and if his performance and conduct is statisfatory.

6. In the instant case the applicant was engaged in the year 1981 and he worked for 369 days between 6-6-81 to 28-9-82. No proof was submitted by the applicant for his further engagement, although he mentioned in his original application for engaging a short period between 1982 to 1992 to which the respondents have denied, therefore in the absence of proof it cannot be said that applicant also was engaged for the period mentioned in the original application by the applicant. Admittedly applicant did not worked for 240 days during each of two preceding years and the name of the applicant was not sponsored by Employment Exchange. The law is well settled and provides that if the applicant was engaged on short term basis in a particular scheme and on cessation of that scheme there was retrenchment. The applicant does not have any right or entitlement for regularisation on this ground.

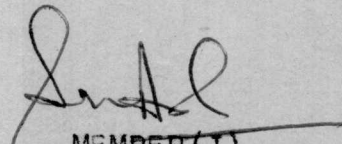


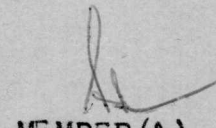
7. In Ratan Chand Samants Vs Union of India 1993 LABIC it was held that delay disentitled the applicants both remedy and rights and sympathetic

treatment was not possible as there was no material to show that the petitioners were covered by the scheme. As the order dis-engaging the applicant has not been challenged within the time, the name of the applicant does not appear in casual live register and the applicant has approached this Tribunal only in the year 1993. Therefore in our considered opinion applicant has no case for regularisation.

8. We, therefore, dismiss this original application. However, the respondents may give priority to the applicant looking to his past experience while engaging any casual labour in future.

No order as to costs.


MEMBER (J)


MEMBER (A)

satya/