

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application No. 333 of 1994

Allahabad this the 28th day of Sep. 1995

Hon'ble Dr. R.K. Saxena, Member ( J )  
Hon'ble Mr. S. Dayal, Member ( A )

B.N. Singh, S/o Sri Bhondi Singh, R/o 234, Bhusoli  
Tola, Allahabad.

APPLICANT.

BY Advocate Shri O.P. Khare proxy  
to Shri A.N. Sinha

Versus

1. Union of India through the Comptroller and Auditor General of India 10, Bahadur Shah Zafar Marg, New Delhi.
2. The Principal Accountant General, Office of the A.G.(A&E), I.U.P. Allahabad.

RESPONDENTS.

By Advocate Shri N.B. Singh.

ORDER

By Hon'ble Dr. R.K. Saxena, Member ( J )

The applicant has approached the Tribunal for seeking the relief that the respondent no.2 be directed to regularise the services of the applicant for appointment on Group 'D' post prior to the date from which the juniors had been regularised and the seniority of the applicant be directed to be fixed in accordance with the order dated 19.2.1992 passed by the Tribunal in the earlier O.A.

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2. The facts of the case are that this applicant was engaged as a Casual Labour by the respondent no.2 in the year 1973. He worked for a few months and he was then removed from service in the month of December, 1973. He, therefore, filed a Writ Petition before the High Court but, because the Central Administrative Tribunal was created, the said Writ Petition was transferred to the Tribunal where it was numbered as T.A.946 of 1987. It was disposed of on 20th February, 1992. The directions given to the respondents were that notwithstanding the age factor and for this purpose treating the applicant to be a casual labour working since then, the claim for re-appointment as casual labour may be considered. It was also <sup>made</sup> a condition that consideration should be done incase if, the casual labours were appointed subsequent to the appointment of the applicant. It appears that on this direction, the applicant had given application to the Principal, Accountant General on 14.11.1992 through his counsel Shri B.N. Singh. Thereafter, the Accounts-Officer informed Shri B.N. Singh through letter dated 04.12.1992 (Annexure-3) that the seniority of the applicant has been fixed in the list of casual labour register according to the number of days, he was employed earlier. It was further informed that the applicant should be considered for regularisation in his turn.

3. The applicant again approach this

Office@Tribunal on the receipt of this information scheme in Annexure-3 and also on the L — for regularisation of the casual labours issued by Government of India on 10.9.1993(Annexure-4). What has been contended on behalf of the applicant is that he should be regularised in the light of the said scheme and in compliance with the directions given by the Tribunal.

3. The respondents contested the case on the grounds that whatever directions were given by the Tribunal, they have been complied with and the applicant was re-engaged as casual labour w.e.f. 28.7.1992. It was further mentioned that the regularisation of the applicant in Group 'D' can be considered only after fulfilling the conditions of eligibility given in the scheme. It is denied if the Tribunal had given direction for continuous period in which he was not casual labour.

4. The applicant also filed rejoinder and contends that the notional seniority for the period when he was not working as casual labour, was not given although, the directions were given by the Tribunal to do so. On other points, the stand taken in the O.A. has ~~not~~ been re-affirmed.

5. We have heard the learned counsel for the parties and have perused the record.

6. The main question in this case is as to what were the directions of the Tribunal in the earlier case T.A.946/87 and whether the compliance of the same has been done or not. The connected question also arises if, the applicant would be given temporary status in view of the scheme dated 10.9.1993(Annexure-4). So far as the directions of the Tribunal are concerned, it is clear from the perusal of the judgment of 20.2.1-992 that the fiction of treating this applicant as a working casual labour was given so that his re-appointment on the ground of his having become over age, may not be rejected. No other benefits was attached with the said direction. The important sentence in the Judgment is "Although the applicant has not established a claim for regularisation as there was no screening and the applicant was not tested for the same. But the applicant can even now be given an opportunity and tested for re-appointment." It makes the position quite clear that there was no case for regularisation of the applicant. Therefore, the benefits of the service rendered by him in the year 1973 and deeming continuity were never intended by the Tribunal. It was for this reason that the position was clarified subsequently in the words "Accordingly with the direction that notwithstanding the age factor and for this purpose treating him to be a casual labour working since then, the respondents may consider

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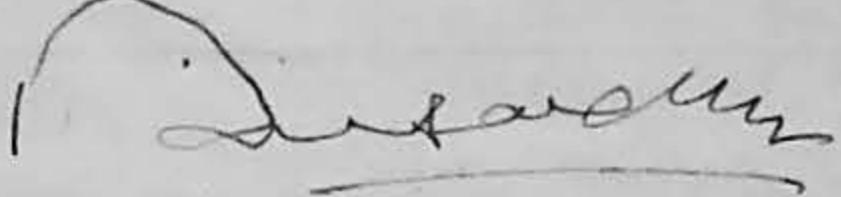
the case of the applicant for re-appointment as casual labour in case those who were taken as casual labour subsequent to the appointment of the applicant or during the period when the applicant worked as casual labour are still working on regular basis or as a casual labour." We find that the Tribunal had given the benefit of fiction only with the intention that the applicant may not be disqualified because of his having become over age. No other benefit can, therefore, be derived.

7. The question then arises if, the applicant can get benefit of the scheme dated 10.9.93 (Annexure-4). The respondents have clearly averred that the applicant was engaged in the light of the directions of the Tribunal on 28.7.1992. According to the scheme in Annexure-4, the temporary status can be given to a casual labour who has been engaged for the period of atleast 240 days(206 days in the case of office observing five days in a week). In this case, the name of the applicant has been entered in the Register on 28.7.1992 but, no work has been given. Therefore, the applicability of the scheme so long, as the applicant has not completed the requisite period of days, does not arise.

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8. On the consideration of the facts and circumstances of the case, we are of the view that there is no merit in the case, and, therefore, it stands dismissed. No order as to costs.

  
( S. Dayal )  
Member 'A'

  
( Dr.R.K. Saxena )  
Member 'J'

/M.M./