

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

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Allahabad : Dated this 11th day of August, 1997

Original Application No.1226 of 1994

District : Allahabad

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.

Tilak Raj  
Son of Shri Vishwanath Prasad  
Resident of EWS-91-92, A.D.A. Colony,  
Pritam Nagar, Dhoomanganj, Allahabad.

(By Shri ABL Srivastava, Advocate)

. . . . . Petitioner

Versus

1. Union of India through the Secretary,  
Department of Revenue, Ministry of Finance  
Lok Nayak Bhawan, Khan Market,  
New Delhi.
2. The Chief Commissioner, Income Tax,  
Ashok Marg, Lucknow.
3. The Commissioner of Income Tax  
Ayekar Bhawan, 38, Mahatma Gandhi Marg,  
Allahabad.
4. Shri Vinod Generator Operator  
Through Respondent No.3.

(By Shri Amit Sthalekar, Advocate)

. . . . . Respondents

ORDER (O r a l)

By Hon'ble Mr. S. Das Gupta, A.M.

The applicant in this OA filed under section 19 of the Administrative Tribunals Act, 1985, has sought a direction to the respondents to reinstate <sup>him</sup> as Generator Operator with all consequential benefits and his regularisation as Generator Operator.

2. The admitted facts in this case are that the applicant was inducted as a casual worker who was made to function as Generator Operator from April, 1992

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till 30-11-1993. It is also admitted that the applicant had worked for 258 days during the year, 1993. The applicant was disengaged from service after 30-11-1993 on the ground of being careless and lacking devotion to his duties.

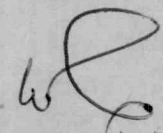
3. I have considered the question of right which may have <sup>accrued</sup> ~~accrued~~ to the applicant by virtue of his working for more than 206 days in 1993 in terms of the Govt. of India Circular dated 10-9-1993 by which the Deptt. of Personnel and Training had formulated a scheme for conferring temporary status on casual workers. A copy of the O.M. was made available to me during the course of arguments. Paragraph No.4 of this O.M. indicates that temporary status would be conferred on all casual labourers who are in employment on the date of issue of the O.M. and who have rendered ~~the~~ continuous service of at least one year meaning thereby that they must have been engaged for a period of 240 days (296 days in the case of initial absorption). Since admittedly the applicant was in service when the scheme came into force i.e. 1-9-1993 and he had completed 206 days of working, he was entitled to be conferred with temporary status. There is no doubt that shortly thereafter the services of the applicant were terminated and no order was issued conferring temporary status on him. However, by virtue of the operation of the aforesaid O.M. the applicant would be deemed to have attained the temporary status on 1-9-1993. Paragraph 7 of the said OM indicates that the services of casual labourers conferred with temporary status may be dispensed with by giving notice of one month in writing. In other words the casual labourers with temporary status would have <sup>the</sup> some liability as a temporary Government servant under C.C.S.(T.S.) Rules, regarding termination of

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service. According to this rule, the services of the temporary employee can be terminated by giving one month notice <sup>or one month's pay</sup> in lieu ~~of pay~~. Admittedly, the applicant was neither given any notice nor any pay in lieu of notice. The termination of his service, is, therefore, bad in law.

4. In view of the foregoing, the OA is partly allowed. The applicant shall be reinstated in service forthwith. He shall continue to be in service with temporary status. The respondents, however, shall be at liberty to take appropriate action against the applicant in accordance with law in case his services are found to be unsatisfactory.

5. The parties shall, ~~however~~, bear their own costs.

  
Member (A)

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