

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Rejoinder not filed

125
28/12 Bench

Rejoinder not filed

31/1/01 Bench

For Admission

28/2/01 Bench

Order dated 1.3.2001

Learned counsel for the petitioner Shri S.N.Sahoo and Associates are absent. There is also no request made on their behalf seeking an adjournment. As in this matter pleadings have been completed long ago, it is not possible to drag on the matter indefinitely. We have, therefore, heard Shri J.K.Nayak, the learned Addl.Standing Counsel for the Respondents and also perused the records.

In this O.A. the petitioner has prayed for a direction to respondents to regularise him in service w.e.f. 7.11.1995, within a stipulated period. He has also asked for consequential financial and service benefits. Respondents have filed their counter opposing the prayer of the applicant. No rejoinder has been filed.

The case of the applicant was that he is working under Telecom District Manager, Koraput and Sub-divisional Officer, Telegraph, Rayagada and in support of this he has filed a copy of Muster Roll vide Annexure-1. In support of his prayer the applicant has stated that he has filed representation on 14.5.1996 for regularisation of his services, but without any result. He has also stated that two persons, viz., Radhakanta Gauda and S.Satyanarayan, who were junior to him were regularised in order dated 7.11.1995 (Annexure-3) and 1.7.1996 (Annexure-4), but his case was ignored. The applicant has further stated that in accordance with the decision of the Hon'ble Supreme Court in the case of Dak Tar Mazdoor Manch vs. Union of India reported in AIR 1987 SC 2342, his services are required to be regularised, and that is why he has come up in this O.A. with the prayers referred to earlier.

Respondents in their counter have stated that for grant of Temporary Status and regularisation of Temporary Mazdoors, a scheme has been circulated in order dated 7.11.1989 vide Annexure-R/1. The detail of the scheme has been enclosed to this Annexure. Respondents have stated that this scheme came into force w.e.f. 1.10.1989 and it provides that Temporary Status has to be conferred on all

J.J.M.

Casual Mazdoors who were currently engaged and who had rendered continuous service of at least one year, meaning thereby 240 days, which is reduced to 206, in case of offices observing 5 days' week. Respondents have further stated that the applicant was engaged as casual mazdoor for 242 days during 1985, 189 days in 1986 and 66 days in 1987. Thereafter he has never worked nor approached for engagement. As on the date the scheme came into force the applicant was not in employment under he is not entitled to the benefit of the scheme. the respondents/ It has also been stated that the applicant has approached the Tribunal ^{after} 12 years of the date of his last engagement and therefore the O.A. is barred by limitation. On the above grounds respondents have opposed the prayers of the applicant.

In the context of the above pleadings and submissions made by the learned Addl. Standing Counsel, the prayers of the applicant will have to be considered.

The prayer of the applicant for regularisation from 1995 when Shri R.K.Gouda was regularised in order dated 7.11.1995. Even ^{though} the applicant has alleged discriminatory treatment vis-a-vis S/Shri R.K.Gouda and S.Satyanarayan, he has not made these two persons as parties in this case. Moreover, the scheme, according to which the applicant's services sought to be regularised, does not provide straightaway regularisation of casual mazdoors. First he is to be conferred with temporary status in accordance with the scheme and in case he becomes eligible for conferment of temporary status in accordance with the scheme, thereafter his case for regularisation has to be taken ^{up} in his turn against ^{of 3} regular vacancies in the Group D Post. As the applicant has not been conferred with Temporary Status he cannot claim straightaway regularisation and therefore, his prayer for regularisation is accordingly rejected. Moreover, he is also not entitled to conferment of temporary status, because Temporary Status can only be conferred in terms of the Scheme and the Scheme, which came into force w.e.f. 1.10.1989, specifically provided that only those casual labourers, who were currently employed

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and who had fulfilled the other conditions of the scheme would be conferred with Temporary Status. Respondents have stated that the applicant's last engagement was in March, 1987. This averment has not been denied by the applicant by filing any rejoinder. In this view of the matter, we hold that the applicant's case does not come within the four corners of the Scheme, even for the purpose of conferment of Temporary Status.

In the result O.A. is held to be without any merit and the same is rejected, but without any order as to costs.

L. J. J.
MEMBER (JUDICIAL)

Vennam Ram
VICE CHAIRMAN
11/3/2001

Records received
to-day 2.15 on 7.3.01

Free copies of final
order dt. 1.3.2001
issued to counsel
for both sides.

A. J. J.
S.O. (J)

B.
7/3/01