

20

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.490 OF 2003
Cuttack, this the 30th Day of November, 2007

Sri Harsha Ranjan Khosla Applicant

Vs.

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?


(DR. K.B.S. RAJAN)
MEMBER(J)

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.490 OF 2003

Cuttack, this the 30th Day of November, 2007

CORAM:

HON'BLE DR. K.B.S. RAJAN, MEMBER(J)

.....

IN THE CASE OF:

Sri Harsha Ranjan Khosla, aged about 52 years, Son of Late Benjamin Khosla, At-Mission Compound, Po/Dist.-Koraput.

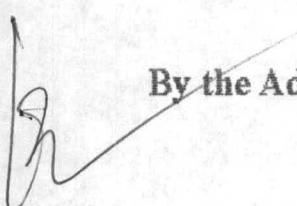
..... **Applicant**

By the Advocate(s) M/s. D.P. Dhalsamant
P.K. Behera
Vs.

1. Union of India represented thorough its Secretary, Department of Posts –cum-D.G. Posts, Government of India, Ministry of Communication, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. The Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist. Khurda, Pin-751 001.
3. Senior Superintendent of Post Offices, Koraput Division, At/PO-Jeypore, Dist-Koraput.
4. Surya Narayan Behera, Post Master, Head Post Office, At/P.O/Dist.Koraput.

..... **Respondent(s)**

By the Advocate(s).....Mr. U.B. Mohapatra



O R D E R

DR. K.B.S. RAJAN, MEMBER(J)

This is 4th round of litigation. In the last round of litigation vide Annexure-A/8 in O.A. No.175/01 the following order was passed:-

“The applicant has filed the present O.A. (O.A. No.175/01) by taking a ground that he having completed 240 days in a Calendar Year before 19.11.1989, he is entitled to get Temporary Status and consequential benefits arising there from. If it is a fact that the applicant has completed 240 days in a Calendar Year, prior to 29.11.1989, as casual labour, he is definitely entitled to be conferred with Temporary status under the Scheme for regularization (drawn as per the direction of the Supreme Court of India) and once he is conferred with Temporary Status, he can get the consequential benefits of being considered for regularisaiton against a Group D post, under the Scheme”.

2. In pursuance there of the respondents have considered the case of the applicant but rejected the same vide Annexure-A/9. According to them the applicant has not performed duty of 240 days as casual labourer in any of the calendar year prior to 29.11.1989 as per record for grant of temporary status.

3. The applicant had originally claimed that he had served 240 days and above during the period prior to 1989. Whereas by filing an amendment petition M.A. No.824/06 the applicant has filed certain documents showing that the applicant, was in employment as casual labourer on 29.11.1989 (Annexure-X) and has been engaged as casual labourer for a period of more than 240 days in the year 1990 (Annexure-Y). It shows that he had worked more than 240 days in 1989-90. Vide order dated 09.03.07 the respondents are directed to search those records again and come up ;with a report about the availability or otherwise of the records sought for by the applicant in the M.A. and in case the records have in the meantime been destroyed, the respondents to produce destruction register on the next date. The Ld. Counsel for the respondents have filed a memo enclosing the copy of statement regarding engagement of applicant as called out from the pay bill drawn from 01.01.1989 to 31.12.1990 which reflects as below:-

“(a) The applicant had performed his duties as casual labourer between 24.11.89 to 30.11.89.

(b) for the year 1990 the applicant had performed his duties from 13.01.1990 to 31.12.1990 which he had served more than 240 days.”

4. Ld. Counsel for the applicant invited attention of this Tribunal with the following two Government orders:-

“(a) Order dated 12th April 1991 which provides for the Scheme called Casual Labourers (Grant of Temporary

Status and Regularization) Scheme. Wherein the very first condition is as under:-

“1. ‘Temporary Status’ would be conferred on the casual labourers in employment as on 29.11.1989 and who continue to be currently employed and have rendered continuous service of at least one year, during the year they must have been engaged for a period of 240 days (206 days in the case of offices observing five days week).”

5. He has also invited the attention to letter dated 1st November, 1999 which reads as under:-

“9. Casual lablurers recruited after 29-11-1989 and up to 01.09.1993 are also to be conferred ‘Temporary Status’.- According to the orders on the scheme issued vide Letters No.45-95/87-SPB. I, dated 12.04.1991 and No.66-9/91-SPB. I, dated 30.11.1992 (Orders (5) above), full time casual labourers who were in employment as on 29.11.1989 were eligible to be conferred ‘Temporary Status’ on satisfying other eligibility conditions.

The question of extending the benefits of the scheme to those fulltime casual labourers who were engaged/recruited after 29.11.1989 has been considered in this office in the light of the judgement of the CAT, Ernakulam Bench, Ernakulam delivered on 13.03.1995 in O.A. No.750 of 1994.

It has been decided that full time casual labourers recruited after 29.11.1989 and up to 01.09.1993 may also be considered for the grant of benefits under the scheme.

This issues with the approval of IS and FA vide Dy. No.2423 of 1995, dated 09.10.1995.”

92

6. This according to the Ld. Counsel for the applicant the conditions viz. to be on service as on 29.11.1989 and to rendered 240 days of service in a year prior to 1993 are fulfilled by the applicant and as such he is entitled to temporary status

7. Respondents have contested the OA. According to them, they interpret the scheme as given in order dated 12-04-1991 and the letter dated 8th November, 1995 differently. Former is for those who had been in service as on 29-11-89 and latter is for those who were engaged from 30-11-1989. According to the respondents, the applicant was one who was engaged prior to 30-11-1989 but he did not complete 240 days in any year according to 12-04-1991 order. If he claims 240 days of service as per 8-11-1985, then he does not fulfill the requirement of being engaged from 01-12-1989. Further, if financial year is taken, he does not fulfill 240 days in the year 1979-80 or 1980-81 and thus he is not entitled to temporary status. He has cited the decisions of the Apex Court in Umadevi, Mohanpal and Delhi High Court judgment etc.,

8. Arguments were heard and documents perused. The contention of the applicant that the two orders are to be read separately is not acceptable. Again, the interpretation of the respondents that the period of one year must either be a calendar year or financial year should also be held untenable. In fact the scheme of grant of temporary status which was formulated in 1989 initially was extended to 1990 by virtue of 8th November, 1995 order. These two are not different or water tight compartment. And the period of one year should reckon

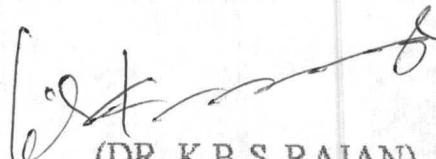


from any date till completion of 365 days. If the applicant fulfills the condition of having been working on 29-12-1989 his period of service could be taken to work out 240 days from any date anterior to that date till he fulfills 240 days. Thus, if his casual labour service is considered from 24-11-1989 itself, one year is over by 23-11-1990. Then his total working days during this period of one year comes to 267 days in during that period of one year. It need not be that the year must be either Gregorian year or financial year. In all in a period of consecutive days of 365 days, the period actually worked should be 240 of days and admittedly the applicant fulfils this condition.

9. Umadevi's case does not apply to this case as this is a case where the engagement is as per rules and that the applicant was covered under the 1989 scheme. Other cases also do not support the case of the applicant, they being distinguishable from the facts of this case.

10. In view of the above, the OA is allowed. It is declared that the applicant is entitled to be granted temporary status. Let the same be done immediately (not later than 31st December, 2007) and without disturbing the seniority of others, his regularization would be as and when the next available vacancy arises and for regularization, there shall be no age bar.

No cost.


(DR. K.B.S. RAJAN)
MEMBER (JUDICIAL)