

NOTES OF THE REGISTRY

17.12.03

A.D. not returned from
R-4. Appearance and counter
not filed by the respondents.

However call on 3.1.04 for
return of AD and appearance.

17/12/03
REGISTRAR

Counter filed - copy
served.

For further orders.

Bever

for Hearing.

Rejoinder
not filed.

On 28.6.04

for Hearing.

for further hearing
as 'Burr - Heard'

ORDERS OF THE TRIBUNAL

Order dated - 20/06/04.

None appears for either
of the parties. Call this
matter on 1.07.04 for hearing.

30/06/04
Member (J).

01.07.04

then - in - fact.

Call this matter on 07.07.04.

Member B

ORDER DATED : 07-07-04.

Applicant a Casual worker
under the Postal Engineering Department
(being aggrieved by the order under
Annexure-6 dated 28.4.2003 rejecting his
grievances for regularisation in Gr.D post)
has filed this Original Application under
section 19 of the Administrative Tribunals
Act, 1985 with a prayer to quash the said
order (of rejection) and for a direction
to the Respondents to regularise him in any
Gr.D post with all consequential service
benefits.

2. It is the case of the Applicant
that on 08.09.1998, Respondents had asked
the Applicant to appear in an interview
fixed to be held on 19.9.1998 for the post
of Peon and, pursuant to the said notice,
he appeared in the interview and did well
but, instead of publishing the result of the
said selection, the Respondents issued another

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advertisement on 21/27.11.1998 for the same vacancies. However, on 04.07.2000, the Applicant was engaged as unskilled labourer under the Respondent No.4 and despite of his long continuance, on casual basis, no steps were taken to regularise him and in the said premises, he made representation to his authorities. Though the local office recommended his case, it did not yield any fruitful result and ultimately, his prayer for regularisation having been rejected, he has filed this Original Application with the aforesaid prayer.

3. By filing a counter, it was disclosed by the Respondents that the interview (where the Applicant appeared) was, ultimately, cancelled, due to administrative reason and though the Applicant was engaged, on casual basis, since he did not fulfil the standing orders (of the DOP&T) for regularisation or for conferment of temporary status; his grievances were turned down under Annexure-6 dated 28.4.2003. It has, therefore, been prayed by the Respondents that since the Applicant has no legal right to claim regularisation, this O.A. is liable to be dismissed.

4. Heard Mr.D.P.Dhalsamant, learned counsel appearing for the Applicant and Mr.B.Dash, learned Additional Standing Counsel appearing for the Respondents and perused the materials placed on record.

5. Learned counsel for the Applicant, in support of his case, has submitted that since

Copy of order
on 7.7.04 prepared
for counsel on
both sides.

21/7

21/7
So

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	<p>the applicant has been engaged on casual basis, followed by interview, it is sufficient to hold that his continuance was regular and, therefore, he is entitled to continue on regular basis. Learned Additional Standing Counsel in support of the contentions made in the counter has highlighted that the interview which was conducted was subsequently cancelled and the applicant was engaged on casual basis for carrying out certain contractual work and he had performed his duty only for few days i.e. 24 days in the year 2000; 53 days in 2001, 60 days in 2002 and 50 days in the year 2003 and, therefore, he has no subsisting right to claim any regularisation. By relying on the Government of India instruction (for conferment of temporary status and regularisation of casual workers) Learned Additional Standing Counsel has submitted that since on examination it was found that the Applicant is not coming within the ingredients for being conferred with temporary status/regularisation his case was rightly turned down and, as such, he has no case for regularisation.</p> <p>6. After hearing learned counsel for both sides and on examination of the materials placed on record it is seen that the very engagement of the applicant even on casual basis was neither through any interview nor out of any merit competition. Merely because he had performed the duties casually for some time, he cannot claim regularisation; more so when he is not coming</p>

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within the purview of the ingredients of the circular (for regularisation) issued by the DOP&T of Government of India. Further, it is seen that the interview, in question, has been cancelled by the Respondents due to administrative reasons; which they can always do at any time.

7. In the above view of the matter, there are no merit in this case; which is accordingly dismissed. No costs.

(Mangramjan Mohanty)
Member (Judicial)

07/07/04