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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH
JODHPUR

Date of order : 16.12.1999

ORIGINAL APPLICATION NO. 260/1998

Naurang Lal S/o Shri Mohan Lal aged about 26 years, R/o Harijan Basti, Nathusar Gate, Bikaner Post of Safaiwala in office of Air Force Station, Bikaner.

.....Applicant.

versus

1. Union of India through the Secretary (Defence), Ministry of Defence, Raksha Bhawan, Government of India, New Delhi.
2. Adm. Officer-cum-Commanding Officer, 263, Single Units, Well Road, Air Force Station, Bikaner.

.....Respondents.

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CORAM :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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Mr.Mukesh Vyas, Counsel for the applicant.

Mr.K.S.Nahar, Counsel for the respondents.

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PER HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER :

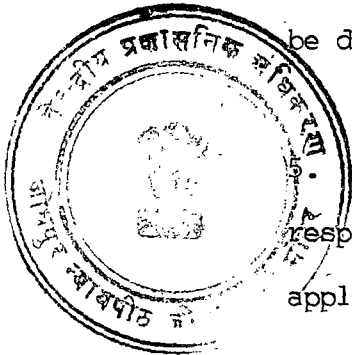
The applicant has filed this O.A. with the prayer that verbal termination order dated 3.8.1998 passed by the respondent department be quashed and the applicant be directed to be taken on duty with all consequential benefits. The applicant has further prayed that the respondents be directed to pay to the applicant regular pay from the date of his employment with interest.

2. Notice of the O.A. was issued to the respondents who have filed their reply stating therein that the applicant is not entitled to relief as claimed.

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3. We have heard the learned counsel for the parties and have gone through the file.

4. On the basis of the facts pleaded in the O.A. it was argued by the learned counsel for the applicant that the applicant was initially appointed as Safaiwala on daily wage basis in the year 1989. He continued to work till September 1990. Thereafter, his services were terminated by verbal order but he was reengaged in December 1997 and continued to be employed till 3.8.1998 and again his services were terminated by verbal order. Thus, the department is adopting unfair labour practice. Since the applicant had rendered continuous service of 240 days in the year 1989-90, the respondents be directed to regularise his service.



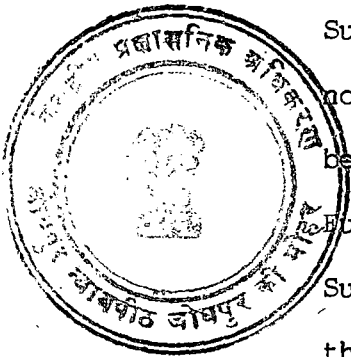
5. On the other hand, the learned counsel for the respondents argued on the basis of the defence taken that the applicant was a daily wage worker and was employed to discharge duty as and when necessity arose. The applicant never completed 240 days as continuous service. Moreover, the provisions of the Government O.M of September 1993 do not apply in the present case. Therefore, the applicant is not entitled for regularisation. His services were not terminated rather the applicant himself stopped returning on duty on his own on both the occasions, therefore, he is not entitled to be reemployed. It was also argued by the learned counsel that daily wage worker has no right to continue in service because his status does not confer him any right. Therefore, the Original Application deserves to be dismissed.

6. Considering the rival arguments and facts of the case, we are of the opinion that the scheme for grant of temporary status and regularisation of casual workers which was issued by the Government of India on 10.9.1993 is not applicable in the instant case. The applicant was not in employment when the scheme came into

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force in September 1993, therefore, this scheme cannot be made applicable to the applicant for regularisation of his service. This scheme clearly stipulates that the casual worker who claims to be regularised should be in employment on the date the scheme came in force. This scheme further stipulates that only those casual workers who have completed 240 days of continuous service in the previous years can only be considered for regularisation. Applying these two conditions in the present case, we find that the applicant was neither in employment on the day the scheme came in force nor had completed 240 days of service in any year previous to the year the scheme came in force. In 1997 (2) SLR Page 570 - Himanshu Vidhayarthi and Others versus State of Bihar, it was held by Hon'ble Supreme Court that "temporary employees working on daily wages have no right to hold the post. Their dis-engagement from service cannot be construed to be retrenchment under the Industrial Disputes Act." Further in JT 1996 (2) SC Page 455 - State of Himachal Pradesh versus Suresh Kumar Verma and Others, it was held by Hon'ble Supreme Court that "appointment on daily wage basis is not an appointment on regular basis." In the lines of the above principle, it was also held by Hon'ble Supreme Court that in such matters no direction for re-employment could be given nor such casual workers are entitled for regularisation. In view of this, the applicant cannot claim to be re-engaged/re-appointed and no direction for regularisation of his service can be given in the instant case. In our opinion, the applicant has not been able to establish that he is entitled to the reliefs claimed by him. Therefore, in our opinion, the Original Application deserves to be dismissed.



7. The Original Application is, therefore, dismissed. The parties are left to bear their own costs.

Gopal Singh
(GOPAL SINGH)
Adm. Member

A.K. Misra
(A.K. MISRA)
Judl. Member

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Part II and III destroyed
in my presence on 2-7-06
under the supervision of
section officer () as per
order dated 1-6-27-06

[Signature]
Section officer (Record)

Reed Gpg

[Signature]
2-12-99

Read Copy
for K. S. Mohr
2-12-99