

Date of order : 05.10.2000

1. O.A. No. 158/1998

K.K.G. Kumar son of Shri N. Krishnan Unithan aged 34 years resident of Hakim Bagh, Behind Olympic Cinema, Jodhpur, Cleaner, Daily Wager in Regional Remote Sensing Service Centre, CAZRI Campus, Jodhpur.

2. O.A. No. 159/98

Sunder Lal Changra son of Shri Dharam Pal aged 24 years resident of CAZRI Colony, Daily Wager Gardner/Cleaner, Regional Remote Sensing Service Centre, Jodhpur.

... Applicants.

versus

1. Union of India through the Secretary to the Government, Department of Space, Bangalore.

2. Head and Project Director, Regional Remote Sensing Service Centre, Jodhpur.

3. Assistant Administrative Officer, Regional Remote Sensing Service Centre, Central Arid Zone Research Institute Campus, Jodhpur.

... Respondents.

Mr. Vijay Mehta, Counsel for the applicants.

Mr. Kuldeep Mathur, Adv., Brief holder for Mr. Ravi Bhansali, Counsel for the respondents.

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HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN
HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

These two applications are filed with common facts and grounds, therefore, we are disposing of both the applications by a common judgement/order.

2. The applicant, K.K.G. Kumar, in O.A. No. 158/98, contends that he was appointed as Cleaner on daily wages after due selection by the respondent No. 2 on 01.04.88 and since then, he is working regularly and continuously. He filed Annexure A/2 letter dated 29.07.95 written by

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the Head & Project Director to the Officer on Special Duty, DOS/SPO Office, New Delhi, stating that the applicant was working as Canteen Cook since last 7 years from 01.04.1988. The applicant also filed Annexure A/3 dated 02.04.98, payment wages letter, stating that the applicant was getting Rs. 32/- per day for rendering services as Cleaner. The applicant also filed a Scheme for grant of temporary status and regularisation of casual workers vide Annexure A/4. He filed a representation vide Annexure A/5 dated 25.01.96, requesting for grant of temporary status and regularisation. Likewise, the applicant in O.A. No. 159/98, Sunder Lal Changra, stated that he was working as Gardner/Cleaner since June, 1989, on daily wages. He produced Annexure A/2, a certificate dated 04.12.97, issued by the Head & Project Director, stating that he was working as Gardner/Cleaner since June, 1989. He also filed Annexures A/3 and A/4, similar to Annexures A/3 and A/4 filed in O.A. No. 158/98. Sunder Lal also made a representation vide Annexure A/5 dated 25.01.96 for conferring him temporary status and regularisation in terms of the Scheme filed at Annexure A/4. In both the applications, the applicants filed Annexure A/1 dated 22.06.98, contending that the department issued the same to them, stating that the applicants could offer their services on contract basis and their services as casual labour could be terminated.

4. By filing the reply statement, the respondents denied the case of the applicants. The respondents have stated that the applicants were appointed as casual labourers only on their request in the year 1988 and 1989 respectively. But they were appointed as casual labourers for intermittent periods occasionally on monthly payment basis at Rs. 450/- per month. There used to be intermittent breaks whenever there was no work. They have denied the allegations of the applicants that they were engaged on casual basis after due selection procedure. They stated that there was not any selection procedure. The applicants were engaged on casual basis since the work involved was not of a regular nature requiring full time work. They stated that Annexure A/2 was a letter

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forwarding the application of the applicant in OA No. 158/98 for the post of Cook in Delhi office and it was only on humanitarian grounds. The Annexure A/2 filed in OA No. 159/98, was issued at the request of the applicant for trying to get permanent employment in the Army Station Headquarters at Jodhpur against their requirements. The respondents also stated that Annexure A/1 filed in both the cases was issued to take the work of Cleaner, Gardner etc. through contract basis, since nature of duties require only part time work. Therefore, it was notified for public by displaying on the notice board. Copy of Annexure A/1 was not given to the applicants, calling for their options as such. They have also stated that the applicants were only working 15 to 20 days in a month, therefore, they are not entitled to any temporary status. The respondents have now decided to get the cleaning and gardening work done through contract basis with a view to channelise their energy and concentrate on the S&T/Research activities of the Regional Remote Sensing Service Centre (for short, RRSSC), without being bogged down to the routine work of cleaning and maintenance. Such a decision was in tune with the general policy of the Organisation. The contention of the applicants that on the basis of Annexure A/1, their options were called for to work on contract basis is denied. Thus, the respondents have denied the allegations made in the applications and accordingly, pray for dismissal of both the O.As.

4. Heard the learned counsel for the parties.

5. Though the applicants have not produced any other materials, like wage slips etc., to show that they were engaged in the year 1988 and 1989 respectively, on casual basis. But the applicant in OA No. 159/98 has produced Annexure A/2 dated 29.07.95, in which it is stated by the Head and Project Director that Shri K.K. Gopakumar has been working as Canteen Cook as per the Casual basis Muster-roll since last seven years from 1.4.88 with RRSSC, Jodhpur. A similar certificate was issued to the applicant in OA No. 159/98 by the Head & Project Director, stating

that Shri Sunder Changra was working as Gardner/Cleaner since June, 1989. This certificate is dated 04.12.1997. In Annexure A/3 filed in both the cases, established that Shri K.K.G. Kumar was working as Cleaner and Shri Sunder Lal was working as Gardner on daily wages basis at Rs. 32/- per day. From these records, it is clear that the applicants have been working with the respondent- Organisation on daily wages basis right from 1988 and 1989, respectively. At any rate, Annexure A/2 certificates could not be denied by the respondents. In fact, it is not denied even in the reply of the respondents, the applicant was working on daily wages basis. But according to the respondents, the applicants were working only for a period of 15 to 20 days per month, whereas according to the applicants, for entire month. But on the basis of Annexure A/3 payment certificate dated 04.02.98, the applicants were getting Rs. 32/- per day and total amount comes to Rs. 800/- per month, it can be inferred that the applicants were working atleast 25 days per month at Rs. 32/- per day. Normally, in a month 4 or 5 days would be Sundays. If that is so, the applicants were not working on Sundays and they were not getting any wages on Sundays. The fact remains that like any other workers, they were working for entire month. If that is so, the applicants would be entitled to the benefits under the Scheme formulated by the Government of India vide Annexure A/4 dated 10.09.93. The Scheme itself is called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993". According to the said Scheme, the persons who have rendered a continuous service of atleast one year, which means that they must have been engaged for a period of atleast 240 days (206 days in the case of offices observing 5-day week) would be entitled to temporary status. According to the Scheme, conferment of temporary status on such casual labourer would be without reference to the creation/availability of regular Group 'D' posts. The Scheme also makes clear that such casual labourers who acquire temporary status would not be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts. However, they are entitled to

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certain benefits provided in para 5 of the said Scheme. Para 7 of the said Scheme further provides that despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing and such casual labourer can also quit service by giving a written notice of one month. Para 8 of the said Scheme also provides procedure for filling up of Group 'D' posts.

6. Thus, from the above Scheme, it is clear that all those casual workers who have put in not less than 240 days in a year are entitled to be given temporary status. On the basis of the records produced before us, particularly the letter issued by the Head & Project Director vide Annexure A/2, it is clear that the applicants have been working right from 1988 and 1989 respectively, as casual labourers. If that is so, they are entitled to temporary status under the Scheme referred to above. In fact, their representations to the department vide Annexure A/5 were for granting such temporary status in terms of the said Scheme and the department should have considered the same. Instead of doing so, they have terminated the services of the applicants by a verbal order. Moreover, from Annexure A/1 notification proposing to carry out gardening and cleaning on contract basis for a period of one year with effect 01.07.98, it is clear that the services of Gardner and Cleaner would be required at RRSSC, Jodhpur. Keeping in view all the facts, we are of the opinion that the applications deserve to be allowed. Accordingly, we pass the order as under:-

"Both the applications are allowed. The impugned verbal termination orders are hereby quashed and the respondents are directed to reinstate the applicants in service and accord temporary status to the applicants in terms of the Scheme dated 10.09.1993 (Annexure A/4) issued by the Government of India.

However, the applicants would not be entitled to any arrears of salary from the date they were orally terminated to the date they are now be taken on duty. This order shall be complied with within a period of three months from the date of receipt of a copy of this order. No costs."

Sd/-
(GOPAL SINGH)
ADM. MEMBER

Sd/-
(B.S.RAIKOTE)
VICE CHAIRMAN

cvr.

प्राप्तिकर्ता का नाम
बनाना अधिकारी (व्यापक)
लोकीय प्रशासनिक अधिकारी
जोषपुर