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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 235/2001
~~T.A. No.~~
~~xxxxxx~~

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DATE OF DECISION 12/9/2002

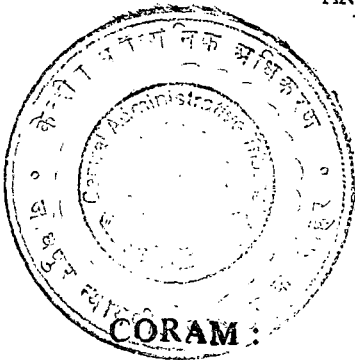
NARAINLAL Petitioner

MR. GIRISH SANKHLA Advocate for the Petitioner (s)

Versus

UNION OF INDIA & ORS. Respondent


MR. KAMAL DAVE Advocate for the Respondent (s)




The Hon'ble Mr. A.P. NAGRATH, MEMBER (A)

The Hon'ble Mr. J.K. KAUSHIK, MEMBER (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
- ✓ 2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ?
- ✓ 4. Whether it needs to be circulated to other Benches of the Tribunal ? Yes


(J.K. KAUSHIK)
MEMBER (J)


(A.P. NAGRATH)
MEMBER (A)

ypr

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

* * *

Date of Decision: 12-9-2002

OA 235/2001

Narainlal, Safaiwala, PTS Balwara Railway Station, Distt. Jalore.

... Applicant

Versus

1. Union of India through General Manager (Personnel), N/Rly, Baroda House, New Delhi.
2. General Manager (Personnel), N/Rly, Baroda House, New Delhi.
3. Divisional Railway Manager, N/Rly, Jodhpur.

... Respondents

CORAM:

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

HON'BLE MR.J.K.KAUSHIK, JUDL.MEMBER

For the Applicant

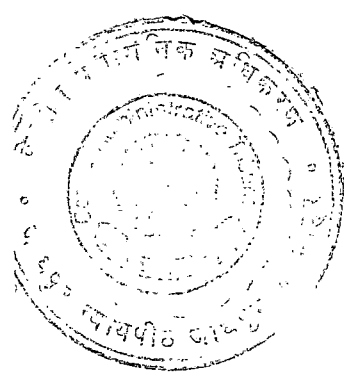
... Mr.Girish Sankhla

For the Respondents

... Mr.Kamal Dave

O R D E R

PER MR.A.P.NAGRATH



The applicant is admittedly a part-time Safaiwala, who was initially engaged at the rate of Rs.60/- p.m. in the year 1979. From 1.1.1993 onwards he was being paid Rs.120/- p.m. and w.e.f. 4.6.96 till date he is being paid Rs.250/- p.m. He has filed this OA with the prayer that the respondents be directed to regularise his services.

2. Heard the learned counsel for the parties. The only plea of the learned counsel for the applicant, Shri Girish Sankhla, was that the applicant has been in service of the respondent department for the last more than 22 years and he deserves to be regularised against a regular vacancy. The learned counsel also stated that the work of the applicant, in fact, is not part-time but he is working for more than five to six hours everyday.

3. The learned counsel for the respondents, Shri Kamal Dave, rebutted this claim of the applicant that he has been working for more than five to six hours in a day and stated that the very nature of the applicant's engagement was part-time. The applicant has been engaged to work at Balwara Railway Station, where he is required to put in work for about two to three hours for four to five days in a week. He pointed out that

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there is no scheme operational in the department which would cover the claim of a part-time worker for being regularised against the regular vacancy.

4. The legal position in this regard is very clear that regularisation of even full-time casual labour can only be against a scheme. The learned counsel for the applicant has not been able to bring to our notice any such scheme of the respondent department under which the applicant could seek regularisation. He placed reliance on the judgement of Rajasthan High Court in the case of Yashwant Singh Yadav v. State of Raj.& Ors., reported at 1989 (1) RLR 156, in support of his contention that part-time worker has a right to be considered for regularisation. In that case the High Court was required to examine whether termination of services of a part-time employee amounted to retrenchment under Section 25-F of the Industrial Disputes Act. It was held that the petitioner, no doubt appointed as a part-time employee, is a workman, as defined in the Act. The termination of his services amounts to retrenchment and the retrenchment was made in violation of the provisions of Section 25-F of the Act. Thus, he was held entitled to reinstatement. This judgement is of no help to the applicant as we are not dealing with the retrenchment of the applicant or the provisions of the Industrial Disputes Act. The applicant, who is a part-time worker, is claiming regularisation. On this aspect of the matter, we would like to revert to the observations of the High Court in the same matter. It was stated as under :

"The petitioner has claimed wages of a regular class-IV employee. We are unable to grant this relief to him. He has been appointed as a part time employee on daily wages basis at the rate mentioned in his appointment orders issue from time to time. The wages of full time class-IV employee cannot be granted to him in this proceeding."

This makes it clear that even in that case, relied upon by the learned counsel for the applicant, the claim for regularisation was specifically rejected. Even the claim for wages of full-time class-IV employee was turned down.

5. In Municipal Corporation of Delhi v. Gauri Shanker & Ors., 2000 (3) SLJ Delhi High Court 155, the Delhi High Court has held that casual labour can be regularised only as per scheme.



6. In Union of India v. Debika Guha & Ors., 2000 (3) ATJ SC 364, the Apex Court has held that claim for regularisation of substitutes, who have worked for long periods, are not entertainable. Substitutes stand on a much higher footing than the full-time casual labour. Obviously, unless the scheme or the rules provide there can be no right of part-time casual workers for regularisation.

7. In 1999 SCC (L&S) 642, Hon'ble the Supreme Court held that part-time voluntary workers in Health Service working for long time at a pittance of Rs.50/- p.m. can have no statutory right for consideration for regularisation. Though, in that case, the Apex Court under its inherent powers directed the department for considering those workers for regularisation in view of their long years of service.

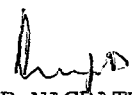
8. In Secretary, Ministry of Communication, & Ors. v. Sakkubai & Anr., 1998 SCC (L&S) 119, Hon'ble the Supreme Court held that the scheme for regularisation of casual labour as applicable to Central Government departments covers only full-time and not part-time casual workers.

9. Thus, the legal position is well settled that a part-time casual labour can have no claim to be considered for regularisation unless any scheme specifically provides for such an eventuality. It is not the case of the applicant that there is such scheme operational in the respondent department and that he is not being considered for the same. Part-time workers are engaged where the workload does not justify creating a regular post or even engaging a casual labour on full-time basis. There is no restriction imposed on such a part-time worker to engage himself in any other occupation. He is not bound under any of the service condition of the department. He continues to work as a part-time worker on his own volition and not under any binding condition. We do not find any merit in the case of the applicant and this OA is liable to be dismissed.

10. The OA is, therefore, dismissed but with no order as to costs.


(J.K.KAUSHIK)

MEMBER (J)


(A.P.NAGRATH)

MEMBER (A)