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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

Original Application No. 346 of 2002  
Jodhpur: this the 6<sup>th</sup> day of October, 2003.

.....

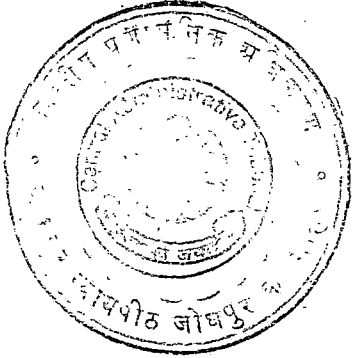
Hon'ble Mr. J. K. Kaushik, Judicial Member

Kismat Ali S/o Shri Thag Ansali, aged about 43 years,  
Resident of CCBF Colony, Suratgarh,  
At present employed on the post of Casual Labour  
In the office of CCBF, Suratgarh, Distt. Sriganganagar (Raj).

..... Applicant.

( By Advocate Shri B.Khan, for the applicant.)

**VERSUS**



1. Union of India through Secretary to  
The Government of India, Ministry of Agriculture,  
Department of Animal Husbandry & Dairying,  
Krishi Bhawan, New Delhi.
2. The Director,  
Cattle Breeding Farm,  
Suratgarh, Dist. Sriganganagar.

..... Respondents.

( By Advocate Shri Vineet Mathur, for the respondents)

**ORDER (ORAL)**

**BY THE TRIBUNAL :**

Shri Kismat Ali has assailed the order dated 3.4.2002 vide which his request for grant of temporary status has been rejected on the ground that he was neither in service on the date

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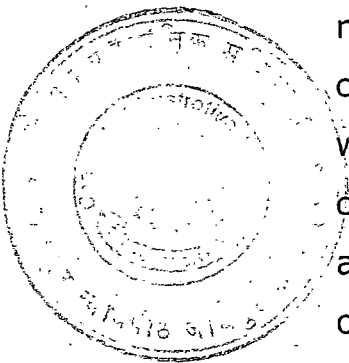
of introduction of the Scheme nor has rendered one year continuous service on the date the said scheme came into effect i.e. 1.10.1993.

2. I have heard the learned counsels with their consent for disposing of this application at the stage of admission and have very carefully perused the records of the case.

3. The indubitable facts of the case as culled from the pleadings of the parties are that the applicant was initially engaged as Casual Labour / Daily Rated Labour - Watchman in the office of second respondent on 2.2.1982 and continued to discharge his duties up to 14.10.1987. His services were terminated from 15.10.1987. A case was filed by him in the Labour Court / Central Industrial Tribunal, Bikaner, which was subsequently withdrawn.

4. After withdrawal of the aforesaid case, the applicant was re-instated in service vide communication dated 22.7.1997 with certain conditions regarding previous dispute and claim for back wages; which he agreed not to claim. The applicant had completed 240 days in the year 1998 as well as in the year 1999 and his case was taken up with the higher authorities for grant of temporary status. Finally, the case has been turned down on the ground that he did not fulfil the eligibility conditions as per the Casual Labours (Grant of Temporary Status and Regularisation), Scheme, 1993 (for short "the Scheme"). It has been specifically averred in the reply that the applicant was not in employment on 1.10.1993 i.e. the date when the Scheme came into effect. He also did not fulfil the other essential conditions of rendering 240 days service on the said date and, therefore, he has not been granted temporary status.

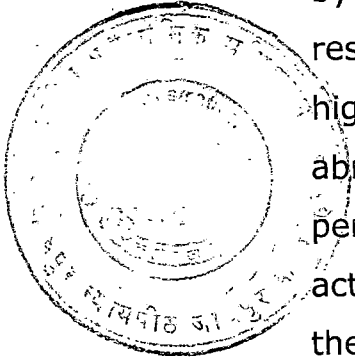
5. There are certain variances in the factual aspect of the matter inasmuch as it has been averred in the pleadings that the



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applicant was terminated from service without following the provisions of law in force and he withdrew the case on the assurance from the respondents. On the other hand, the respondents have averred that the applicant himself did not come on duty and to this effect, he was even issued with a Notice. It is also the stand of the respondents that the applicant had himself requested for withdrawal of his case and no assurance from the side of the respondents was ever given. Since no rejoinder has been filed on behalf of the applicant, the position as brought out by the respondent in their reply remains unrefuted.

6. The learned counsel for the applicant has reiterated his pleadings and has placed heavy reliance on the judgement of Delhi High Court in Nagina Kumar Versus Central Public Works Department & Ors. Reported in 2000 (1) AISLJ 179, and has submitted that the case of the applicant is covered on all fours by the said judgement. He has also submitted that the respondents themselves have taken up the matter with the higher authorities for grant of temporary status but, have abruptly turned down his case. He was in fact prevented to perform his duties at the relevant time and had the respondents acted according to law and not terminated his services illegally, the applicant would have been very much in the employment of the respondents and also would have rendered more than 240 days service in the relevant year. There has been no fault on the part of the applicant and he withdrew the case only on the assurance from the side of respondents which was mainly regarding the payment of back wages.



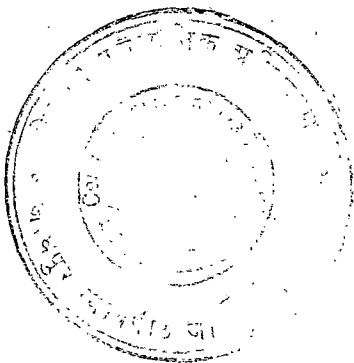
7. On the contrary, the learned counsel for the respondent has strenuously opposed the contentions raised on behalf of the applicant and has stressed on the very language of the Scheme which provides for grant of temporary status as per the Scheme of 1993. He has submitted that since the applicant did not fulfil

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those requisite conditions, he cannot be granted any benefit under the Scheme. He has also submitted that the respondents have not given any assurance to the applicant and this fact has been clearly brought out in the reply. The applicant has not placed on record anything to controvert this position and has also not controverted the same by way of rejoinder. Thus, the averments made by the respondents stand accepted by and admitted to the applicant. He has also submitted that the law position is very clear on the point and the Scheme of 1993 is only a one time scheme and, thus, there is absolutely nothing arbitrary or illegal in issuance of the impugned order. The Original Application, therefore, has no legs to stand and should be dismissed with cost.

8. To appreciate the controversy involved in this case, it would be expedient to extract the contents of the relevant provisions of the Scheme of 1993, as under :-



"4. Temporary status - (i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).

(ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts."

9. The Law as regards the nature of the said Scheme is by now well settled even by Hon'ble the Supreme Court and, therefore, their Lordships in the case of Lt. Governor (Admn) and others Vs. Sadanandan Bhaskar and ors. Reported in AIR 2002 SC 2001, have held as under :-

"10. .... However, we make it clear that the Scheme of 1.9.1993 is not an ongoing Scheme and the 'temporary' status can be conferred on the casual labourers under that Scheme only on fulfilling the conditions incorporated in Clause 4 of the Scheme, namely, they should have been casual labourers in employment as on the date of

the commencement of the Scheme and they should have rendered continuous service of at least one year i.e., at least 240 days in a year or 206 days (in case of offices having 5 days a week). We also make it clear that those who have already been given 'temporary' status on the assumption that it is an ongoing Scheme shall not be stripped of the 'temporary' status pursuant to our decision."

10. A bare perusal of the aforesaid portion of the Scheme and the statement of law laid down by Hon'ble the Supreme Court, makes it evident that for grant of temporary status there are two conditions precedent i.e. one must be in employment on the date of issue of the OM and he also must have rendered continuous service of at least one year, which means that he must have been engaged for at least a period of 240 days (206 days in case of offices having 5 days a week). Applying the same to the present case, it is an admitted position that applicant was not in employment on the date when the Scheme came into force. In fact, he was not in employment from the year 1987 till the year 1997 and, therefore, the question of his rendering or otherwise service of more than 240 days (206 days in case of offices having 5 days a week), does not arise. Thus, this Scheme as it is, cannot be applied to his case and he cannot be granted any benefit of temporary status as claimed by him.

11. The case of Nagina Kumar (supra) cited on behalf of the applicant, has no application to the present case inasmuch as in that case the person was employed on daily rated basis and he was denied benefit of OM dated 10.9.1993 on the pretext that he was not a casual labour. Their Lordships of Hon'ble the Delhi High Court has held that daily rated is no worse than casual labour and the benefits cannot be denied on technical ground. In that case, the individual completed both the requisite conditions but, as a daily rated worker. But the facts in the instant case

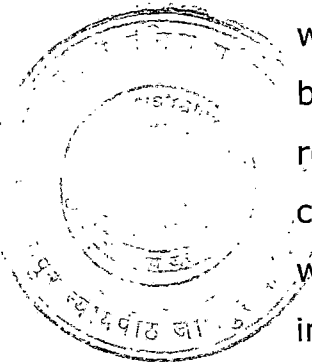

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different and distinguishable those of that case, therefore, the same does not support applicant's case.

12. I am reminded of a case of a co-ordinate Bench of the Tribunal sitting at Jabalpur in OA No. 852/1998 Arvind Kumar Yadav and another Vs. UOI and Others decided on 5<sup>th</sup> August, 2003, wherein, I was one of the party and in a similar situation, the benefit of grant of temporary status has been denied on the basis of judgement in Lt. Governor's (supra) case and the same squarely covers on all fours the controversy involved in the present case.

13. Lastly, the learned counsel for the applicant has feebly submitted that applicant was given assurance by the respondents and on that assurance only, he withdrew the case. But this contention is neither supported by any evidence nor could be countenanced otherwise. We do not find any material which may indicate that he was required to be given any benefit of said scheme or any type of assurance from the respondents' side to this effect. In my considered opinion, the case of the applicant is not at all covered under the Scheme which is a one time bound measure and, therefore, no interference by this Tribunal is called for.

14. The result is, rather very unfortunate but, I have no option except to dismiss this O.A. and I do so accordingly, but, there shall be no order as to costs.

  
  
(J. K. Kaushik )  
Judl. Member

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Part II and III Destroyed  
in my presence on.....  
under the supervision of  
Deputy Registrar as per  
order Date 13-2-2009

Section Officer (Record)

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in my presence on.....  
under the supervision of  
Section Officer as per  
order Date.....~~

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in my presence on.....  
under the supervision of  
Section Officer as per  
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