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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 311/2012

Jodhpur this the 27th day of May, 2013.

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)

Gouri Shankar Sharma S/o Sh. Mool Chand Sharma, Aged about 43 years, R/o 53-A Block, Ward No. 20, Sri-Karanpur, District-Sri Ganganagar (Raj). At present working as Contingent Chowkidar in the office of Sub-Post Master, Sub Post Office – Srikananpur, District – Sri Ganganagar

.....Applicant

(Through Advocate Mr. Rajendra Prasad for Mr H.S. Sidhu)

Versus

1. Union of India through Secretary, Ministry of communication, Department of posts, Dak Bhawan, Sansad Marg, New Delhi – 110001
2. Superintendent of Post Office, Sri Ganganagar Division, District – Sri Ganganagar.
3. Director, Postal Services Rajasthan, Western Region, Jodhpur
4. Sub-Post Master, Sub Post Office – Srikananpur, District – Sri Ganganagar.

(Through Advocate Ms K. Parveen)

.....Respondents

ORDER (Oral)

The applicant by way of this application has prayed for regularization of his services on the ground that he has worked as contingent paid Chowkidar w.e.f. 21.08.1989 on a consolidated salary plus DA. On 12.04.1991 a letter/order was issued by the respondents to grant the temporary status and to regularize the

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services of the casual labours but the benefit of this order has not been extended to the applicant. The applicant has made representation to regularize his services as per the terms of the order dated 12.04.1991 but no action has been taken so far. The applicant has sought following relief(s):

- (i) That the respondents may kindly be directed to extend the benefit to the applicant in terms of the letter dated 12.04.1991 and to pay him all the consequential benefits from the date of issuance of the letter (Annexure A/1)
- (ii) That the respondents may kindly be directed to regularize the services of the applicant on the post of Chowkidar and to pay him all the consequential benefits.
- (iii) That the respondents may kindly be directed to consider the representation of the applicant in terms of the letter dated 12.04.1991 and to extend him all the benefits as per the above letter.
- (iv) Any other order/relief/direction which this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.

2. By way of counter the respondent department denied the averments made in the OA and it has been averred that the instructions regarding grant of temporary status to casual labourers received under postal Directorate, New Delhi letters dated 12.04.1991 and 30.11.1992, it has been clearly mentioned that the scheme was only for the full time casual labourers who were in employment as on 29.11.1989 and have rendered continuous service of at least one year by that time. While the applicant was not fulfilling the conditions, therefore, benefit of above scheme was not extended to the applicant. It has been further averred that the

scheme issued by the respondent-department is not applicable in case of the applicant because he is a part time contingent paid worker. Therefore, OA filed by the applicant deserves to be dismissed. The applicant was being paid fixed wages fixed at Rs 496/- + DA, an amount paid to part time contingent paid Chowkidar is quite different from the wages paid to the daily wager or casual labourers or employee having the temporary status. Therefore, the respondent prayed to dismiss the OA.

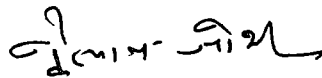
3. Heard both the parties. Counsel for the applicant contended that the applicant is working as a contingent worker since 21.08.1989 and he has not been extended the benefit of the scheme order dated 12.04.1991, thus, applicant's legal right has been infringed by the respondent-department by discrimination vis a vis other employees. Therefore, the applicant is entitled to get the benefit of casual labourer or temporary status employee. He further contended that the applicant used to work throughout the day in the respondent-department office.

4. Per contra counsel for the respondents vehemently defended the action on the part of the respondent-department and further reiterated the arguments as averred in the reply.

5. Considered the rival contentions of both the parties. The applicant himself has admitted in his application that he has been engaged as a contingent worker and contingent worker is a part

time worker. Therefore, the scheme of 12.07.1991 cannot be attracted in the case of the applicant because it is only applicable in case of persons who have completed 240 days in the preceding year from the date of the order and it is not applicable in the case of contingent or part time workers. Counsel for the applicant contended that the applicant has filed a written representation before the competent authority and it is pending and it has not been considered.

6. Therefore, looking into the entire facts and circumstances of the case, I am proposing to dispose off this application with the direction to the respondent-department to reconsider the representation of the applicant Annex. A/5 in accordance with law within 6 months from the date of receipt of this order. The respondent-department is directed to pass a reasoned and speaking order after considering all the aspects of the order Annex. A/1. Thereafter, if applicant has any grievance, he may file fresh OA. There shall be no order as to costs.



(Justice K.C. Joshi)
Judicial Member