

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

Date of Order: 1.12.2004

No. O.A.446 of 1997

PRESENT : HON'BLE MR. MUKESH KUMAR GUPTA, JUDICIAL MEMBER  
HON'BLE MR. M.K. MISHRA, ADMINISTRATIVE MEMBER

GOUTAM KUNDU

VS.

UNION OF INDIA AND ORS. (Income-Tax)

For the Applicant : Mr. S.K. Gupta, Counsel  
For the Respondents : Mr. S.K. Dutta, Counsel

O R D E R (O R A L)

MR. MUKESH KR. GUPTA, J.M.:-

Heard Mr. S.K. Gupta, 1d. counsel appearing for the applicant and Mr. S.K. Dutta, 1d. counsel appearing for the respondents.

2. By the present application the applicant seeks a direction to the respondents to appoint him in a regular Group-D post by stating that he was recruited to meet the exigencies of Administration on 20.8.1993 and since then he has been continuously working in the capacity of Casual Labourer. It is contended that the applicant became entitled to temporary status in terms of DOPT O.M. dated 10.09.1993, which benefit and status has not been granted to the applicant despite the further fact that he has worked for a long time without any interruption. It is stated in the application that the respondents' action is violative of law laid down by the Hon'ble Supreme Court in Piara Singh's case.

3. The respondents in their reply contend that since the applicant was engaged w.e.f 20.8.1993 as a casual labourer and had not rendered one year's of service when the date of the said O.M. came into force i.e. 1.9.1993, he is not entitled to be conferred temporary status. They have also relied upon a judgment of the High Court of the Calcutta in Writ Petition No. 213-216 of 1998, Chief Commissioner of Income Tax & Ors. vs. Kumar Maity and Ors.. etc. Calcutta vs. Manas

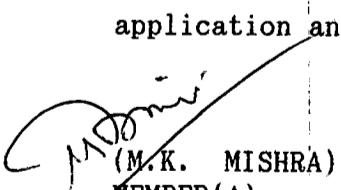
4. Heard Ld. counsel for both the parties and perused the pleadings carefully.

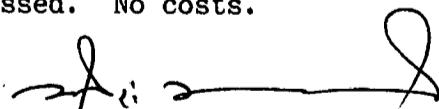
5. On careful consideration of the matter it appears that it is an admitted fact that the applicant was recruited on 20.8.1993. The relevant DOPT O.M. dated 10.09.1993 laid down the criteria for conferring temporary status to the casual labourers as under:-

"4. Temporary Status:-(i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of atleast 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 day week)"

6. On a perusal of the above provision, it is quite clear that casual labourer who did not render 240 and/or 206 days of work as the case may be as on 1.9.93 when the DOPT O.M. dated 10.9.93 was brought into operation, are not entitled to grant of temporary status. As such the said scheme is not attracted in the present case. It is contended by Mr. Dutta, Ld. counsel appearing for the respondents that apart from the fact that the applicant did not render one years' continuous service when the aforesaid DOPT O.M. came into operation, the applicant was not sponsored by the employment exchange, which aspect was not denied by the applicant. For this contention he has drawn our attention to the judgment of the Hon'ble High Court of Calcutta referred to above. The aforesaid judgment squarely applies in the facts and circumstances of the present case.

7. Such being the fact, we do not find any merit in the present application and accordingly the same is dismissed. No costs.

  
(M.K. MISHRA)  
MEMBER(A)

  
(MUKESH KR. GUPTA)  
MEBER(J)