

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.435/03

Friday this the 27th day of February 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

C.Sahadevan,
Casual Labour (temp. status),
Passport Office, Trivandrum.

Applicant

(By Advocate Mr.P.Ramakrishnan)

Versus

1. Union of India represented by
Secretary to Government,
Ministry of External Affairs,
New Delhi.
2. The Joint Secretary and
Chief Passport Officer,
Ministry of External Affairs,
New Delhi.
3. The Passport Officer,
Regional Passport Officer,
Trivandrum.
4. Mohana Kumar K,
Passport Office, Trivandrum.
5. Rajan A.,
Passport Office, Trivandrum.
6. Geethakumari,
Passport Office, Trivandrum.
7. Lakshmi P.,
Passport Office, Trivandrum.
8. K.Mohan Kumar,
Passport Office, Trivandrum.
9. Venugopal C,
Passport Office, Trivandrum.
10. Suresh Kumar,
Passport Office, Trivandrum.
11. Pushpadasan A.T.,
Passport Office, Trivandrum.

Respondents

(By Advocate Mrs.K.Girija,ACGSC [R1-3] & Mr.Shafik M.A.[R4-11])

This application having been heard on 27th February 2004
the Tribunal on the same day delivered the following :

O R D E R

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HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant having been sponsored by Employment Exchange was initially engaged under the 3rd respondent as a Casual Clerk. With the intervention of this Tribunal in O.A.481/00 the applicant was granted temporary status with effect from 1.9.1993. Respondents 4 to 11 although were working on that basis prior to the date of joining of the applicant they having been not sponsored by the Employment Exchange were not granted temporary status. Therefore they filed O.A.434/95. The Tribunal allowed their claim and directed the respondents to grant temporary status to respondents 4 to 11. However, in appeal the Hon'ble Supreme Court of India by order dated 27.1.1997 in S.L.P.No.3368/97 set aside the Tribunal's order (Annexure A-1). The present grievance of the applicant is that while he is entitled to place at Serial No.27a for the reason that he was sponsored by Employment Exchange and had been granted temporary status in accordance with the provision of the scheme the respondents 1 to 3 attempting to regularise the service of the respondents 4 to 11 by absorbing them on Group D post disregarding the seniority of the applicant and despite the fact that they had no such right for temporary status or absorption, therefore, the applicant has filed this application for an order declaring that the applicant is entitled to be included in Annexure A-2 seniority list at Sl.No.27a and to be regularised against a Group D post forthwith in preference to respondents 4 to 11 and that respondents 4 to 11 have no right to be regularised in Group D post overlooking the applicant's claim.

2. The official respondents have in their reply statement admitted that the respondents 4 to 11 were not engaged through

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Employment Exchange, that in view of the ruling of the Hon'ble Supreme Court in their case they have been declared not eligible for grant of temporary status and regularisation, however, they seek to justify their action in taking steps to absorb respondents 4 to 11 ahead of the applicant on the ground that whether they have been granted temporary status or not, they having put in longer service than the applicant, the equity demand that they should be regularised earlier.

3. When the application came up for hearing today learned counsel for the official respondents have filed an additional statement and in which it is stated that the Ministry of External Affairs vide letter dated 26.12.2003 has directed grant of temporary status to 136 casual labourers who were on employment as on 1.9.1993 and had completed 240 days of service although they had not been sponsored by the Employment Exchange relaxing the condition regarding sponsorship of the Employment Exchange and had directed the 3rd respondent to consider grant of temporary status to them if they satisfy other conditions of eligibility under the scheme by letter dated 31.12.2003 and that the 3rd respondent has vide its order dated 15.1.2004 (Annexure R-7) granted temporary status to respondents 4 to 11 with effect from 1.9.1993 and therefore in the seniority list of the casual labourers for absorption the applicant's name would figured only below respondents 4 to 11 at Sl.No.37.

4. I have gone through the pleadings and material brought on record and have heard the learned counsel for the parties. At the time when the O.A. was filed the applicant had a right to be placed at Sl.No.27 in the gradation list as he had been granted

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temporary status rightly in accordance with the scheme and the respondents 4 to 11 had not been granted temporary status. Although the Tribunal had in its order O.A.434/95 directed the official respondents to grant temporary status to them. The Hon'ble Apex Court has reversed the order of the Tribunal in SLP. Therefore the claim of the applicant at the time when the OA was filed was in order as only those who have been granted temporary status in accordance with the provision of the scheme would be placed in the list of casual labourers with temporary status for the purpose of ultimate absorption on Group D post. However, this situation has now changed by issuance of Annexure R-5 and Annexure R-7. The Government who has got the power to relax any rule or scheme for the benefit of any class of persons or employees. In this case the 1st respondent has issued Annexure R-5 and Annexure R-7 orders relaxing the need to be sponsored by the Employment Exchange in the case of casual labourers who had rendered 240 days of service as on 1.9.1993. The respondents 4 to 11 having been granted temporary status with effect from 1.9.1993 under such relaxation by the competent authority are now entitled to be placed in the gradation list of casual labourers with temporary status on the basis of the seniority considering the length of service. Therefore on account of the subsequent development the applicant has become ineligible for the reliefs sought in this application. His prayer for a declaration that respondents 4 to 11 are not entitled to be included in the seniority list of temporary status attained casual labourers for absorption to Group D post and for a declaration that the applicant is entitled to regularised against a Group D post in preference to respondents 4 to 11 cannot be granted.



5. In the light of what is stated above the application fails and the same is dismissed. There is no order as to costs.

(Dated the 27th day of February 2004)



A.V. HARIDASAN
VICE CHAIRMAN

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