

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.557/98

Tuesday, this the 26th day of June, 2001.

CORAM

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. T.P.Khalid
Casual Labourer (Cook)
Government High School, Kavarathi.
Union Territory of Lakshadweep.
2. K.P.Mohammed Ali
Casual Labourer (Cook)
Government High School, Kavarathi.
Union Territory of Lakshadweep.
3. K.I.Abdul Nazar
Casual Labourer (Sweeper)
Government High School, Kavarathi
Union Territory of Lakshadweep
4. U.P.Hameedabi
Casual Labourer (Sweeper)
Senior Basic School, Kavarathi
Union Territory of Lakshadweep.
5. P.Pookoya
Casual Labourer (Watchman)
Senior Basic School, Kavarathi
Union Territory of Lakshadweep.
6. K.I.Savad
Casual Labourer (Helper)
Senior Basic School, Kavarathi
Union Territory of Lakshadweep. Applicants

[By advocate Mr.Shafik M.A.]

Versus

1. Union of India, represented by
the Administrator
Union Territory of Lakshadweep
Kavarathi.
2. The Director of Education
Union Territory of Lakshadweep
Kavarathi. Respondents

[By advocate Mr.S.Radhakrishnan, ACGSC]

The application having been heard on 26th June, 2001,
the Tribunal on the same day delivered the following:


O R D E R

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER

Applicants seek the following reliefs:

- (i) To declare that the applicants are eligible and entitled to be conferred with temporary status with effect from the date on which they have completed 240 days of service on the basis of A-2 Office Memorandum dated 10.9.93 and to direct the respondents to issue necessary order granting such conferment with all consequential benefits including arrears of wages.
- (ii) To declare that the applicants are entitled to be granted 1/30th of the regular pay scale of Group-D employees on the basis of Office Memorandum No.49014/2/Estt.90 dated 7.6.88 for the period they had worked as Casual Labourers and to direct the respondents to pay the arrears of enhanced wages with effect from the date of engagement, with 18% interest.
- (iii) To declare that the applicants are entitled to consequential regularization as per the terms of A-2 and to direct the respondents to regularize the services of the applicants as Group-D Cook etc., with immediate effect.
- (iv) To issue such other further orders or directions as the Honorable Tribunal may deem fit and proper in the circumstances of the case.
- (v) To award cost of this OA.

2. Applicants say that they are working continuously under the second respondent with effect from the year 1995. During 1996 they were not given work for some days. They are paid wages of full time casual labourer. Government of India, Ministry of Personnel have issued Office Memorandum No.51016/2/Estt.(C) dated 10.9.93 granting temporary status to the casual labourers engaged in the office of various Departments and Ministries (A-2). As per the Scheme, they are fully eligible to be conferred with temporary status. They have preferred a representation to the 2nd respondent. It is understood that as per orders of the 2nd respondent, they are being terminated even without notice. They are entitled to get the benefit of A-2 Scheme.

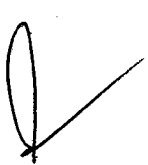


3. Respondents resist the OA contending that the rules do not permit any daily waged Jawahar Rosgar Yojana labourers to be absorbed in regular service. Even on the basis of A-2, applicants cannot be given temporary status as they are not eligible for the same. They have not put in the required number of days continuous service prior to 10.9.93.

4. It is submitted by learned counsel for the applicants that applicant Nos.2, 5 & 6 have been given regular appointment under the respondents.

5. Applicants are relying on A-2 for the purpose of seeking the reliefs sought in this OA. A-2 Scheme says that the same is applicable to casual labourers in employment in the Ministries/Departments of Government of India and their attached and Subordinate Offices on the date of issue of the same but it shall not be applicable to casual labourers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes. A-2 Scheme came into force with effect from 1.9.93 and the same was issued on 10.9.93. Applicants admittedly started working under the second respondent only from the year 1995. That being so, they are not covered by A-2 Scheme.


6. Learned counsel appearing for the applicants drew our attention to the order in OA 54 of 1997 of this Bench of the Tribunal and submitted that this particular order goes a long way in support of the stand of the applicants. In the order in OA 54/97 it is stated thus:



"In any case in terms of the order passed in OA 488/92 and in the light of the operation of the gradation list prepared on the basis of that order which the respondents have already put into operation, casual labourers like the applicants will have to be offered engagement as casual workers".

7. Learned counsel appearing for the applicants submitted that some of the applicants were parties to the OA No.488 of 1992. So it is clear that the order passed in OA 54 of 1997 is based on the order passed in OA No. 488/92 which has got a direct bearing in that OA. Here it is not so. The learned counsel for the applicants drew our attention further to the order in OA 985/95 in support of the stand of the applicants. There it is stated that "it is obvious from this that the applicants were in employment of the respondents when the Scheme came into operation though they might not have been engaged on 29.11.89".

8. Here admittedly the applicants were not in employment when A-2 Scheme came into operation. So the position is that the edifice of the applicants' claim is built on A-2 and as A-2 is not applicable to the applicants they are not entitled to the reliefs sought.



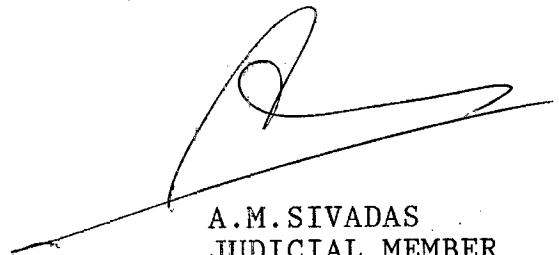
9. The learned counsel appearing for the applicants also submitted that the applicants may be permitted to submit a representation to the authority concerned for redressal of their grievance. This is stoutly opposed by the learned counsel for the respondents. The circumstances do not warrant granting permission to the applicants to submit a representation to the authority concerned.

10. Accordingly the OA is dismissed.

Dated 26th June, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

aa.

Annexures referred to in this OA:

A-2 Copy of the Office Memorandum No.51016/2/90-Estt.(C) dated 10.9.93 issued by the Director, Ministry of Personnel, P.G. & Pension.