

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A NO. 605/2005 & O.A. 730/2005

WEDNESDAY, THIS THE 14th DAY OF JUNE, 2006

C O R A M

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

O.A. NO. 605/2005

K. Omana
Casual Labourer
Central Excise Range Office
Alapuzha

Applicant

By Advocate Mr. CSG Nair

Vs

1 The Commissioner of Central Excise & Customs
Central Revenue Buildings
I.S. Press road
Cochin-18

2 The Assistant Commissioner of Central Excise
Ernakulam II Division
Central Excise Bhawan
Kathrikadavu
Kaloore PO
Cochin-17

3 The Superintendent of Central Excise
Central Excise Range Office
Mullakkal
Alappuzha

4 Union of India
represented by the Secretary
Department of Revenue
Ministry of Finance
North Block
New Delhi-110 001.

Respondents

By Advocate Mr. C.M. Nazar, ACGSC

O.A. 730/2005

M.Radhakrishnan Nair
Part-time Casual Labourer
Customs Divisional Office
Trivandrum

Applicant

By Advocate Mr. CSG Nair

Vs

- 1 The Commissioner of Central Excise & Customs
Central Revenue Buildings
I.S. Press road
Cochin-18
- 2 The Commissioner of Central Excise & Customs
Central Revenue Buildings
Press Club Road
Trivandrum.
- 3 The Deputy Commissioner of Customs
Customs Divisional Office
Central Revenue Buildings
Press Club Road
Trivandrum.
- 4 The Chief Commissioner of central Excise
Central Revenue Buildings
Press Club Road
Cochin.
- 5 Union of India
represented by the Secretary
Department of Revenue
Ministry of Finance
North Block
New Delhi-110 001.

Respondents

By Advocate Mrs Mariam Mathai, ACGSC

ORDER**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN**

The applicants in these OAs are working as part-time Sweepers under the third respondent's office and are seeking grant of temporary status in accordance with the provisions of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme

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of Government of India 1993 having completed more than 240 days. Since the reliefs claimed by the applicants are identical and the grounds urged in the OAs are also identical, they are being disposed of in a common order.

2 The factual position in the two OAs is as under.

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3 The applicant was working as Sweeper in the 3rd respondent's office since December, 1996 and was being paid daily wage @ Rs. 66/- per day. It has been submitted that the applicant was entitled to temporary status w.e.f. 1.12.1998 as she has completed 240 days during 1997. She has submitted A-5 representation to the first respondent requesting for grant of temporary status but no reply has been received. She has also stated that she had not been paid wages during June and July 2005 and respondents are taking steps to remove her from service.

4 The respondents have contended while admitting that the applicant had been working as part-time Sweeper since December, 1996 on daily wages, that she was not sponsored by the Employment Exchange during the month of March, 1999 when it was decided to appoint a part-time Sweeper through employment exchange as she was over aged and her appointment was only an interim arrangement.

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5 The applicant is working as Sweeper in the 3rd respondent's office since 1.12.1995. He has completed more than 240 days in

1995-96 itself and was eligible for temporary status as on 1.12.1996. He has submitted that respondents were taking steps for engaging service providers/contractors and the applicant is likely to be removed from service.

6 The respondents have contended that his appointment was purely on adhoc basis and he was working as part-time Casual Labourer w.e.f. 4.1.1996. From 10.3.2004 onwards engagement of persons on daily wages stands banned and work for which no regular posts have been created/sanctioned may be outsourced through service providers/contractors after following the procedure prescribed.

7 The applicant filed a rejoinder stating that one Shri N. Gopi who is shown in the extract of the Attendance Register at Anneuxre A-5 has been granted temporary status and the applicant is also entitled for similar treatment.

8 The respondents have refuted the above contention on the ground that the Attendance Register (Muster Roll) produced by the applicant is only a record to calculate the number of days since the applicant and Shri Gopi are temporary casual mazdoors having different status, the comparison on the basis of pay is not correct.

9 With regard to the reliefs claimed by the applicants, the respondents have generally averred that the order on the basis of which the applicants are claiming relief is the Scheme called Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India 1993, which is applicable to those who are

employed as Casual Labourer on the date of commencement of the scheme and those who have rendered continuous service for at least one year on that date. The date of commencement of the scheme is 1.9.2003 and both the applicants were not in service at the time of commencement of the scheme and therefore are not eligible for grant of temporary status under the scheme. The Hon'ble Supreme Court have also finally decided the issue in the case of Union of India and another Vs. Mohan Pal and Others (2002) 4 SCC 573 where the Court has directed as follows:

"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 condition incorporated in clause 4 of the scheme, ; namely, they should have been casual labourers in employment on the date of the commencement of the scheme and they should have rendered continuous service of at least one year (240 days in a 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 and shall not be stripped of the temporary status pursuant to our decision."

10 Based on this judgment, the Government of India, Ministry of Personnel, Public Grievances and Pensions have issued Annexure R2 Memorandum extracting the above observations of the Hon'ble Supreme Court and directing all Departments that the observations in the above judgment should be strictly observed. The DOPT's letter dated 6.6.2002 (Annexure R-1) has also reiterated this position that temporary status should be conferred on casual labourers who were



in employment on the date of issue of the above OM namely dated 10.5.1993.

11 The learned counsel for the respondents also during the arguments reiterated the decision of this Tribunal in O.A. 815/05 filed by part-time Safaiwalas in the same department which was dismissed on the same analogy.

12 In view of the legal position stated above and reiterated by the Apex Court in Union of India and another Vs. Mohan Pal and Others (2002) 4 SCC 573 and confirmed in several following judgments in Secretary, State of Karnataka & Ors Vs. Umadevi & Ors. (2006 AIR SCW 1991) underlining that the Scheme for (Grant of Temporary Status and Regularisation) of Casual Labourers 1993 is not an on going scheme and applies only to persons who should have been in employment on the date of commencement of the scheme i.e. 1.9.2003 and who should have rendered continuous service of one year on that date, nothing further needs to be adjudicated in this issue. The position is well settled. The applicants in these OAs were not in service as on 1.1.1993 and therefore not eligible for the reliefs sought for. The OAs are therefore dismissed. No costs.

Dated 14.6.2006.

Sathi Nair
SATHI NAIR
VICE CHAIRMAN

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