

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW**

ORIGINAL APPLICATION NO: 155/2005

LUCKNOW, THIS THE 7th DAY OF NOVEMBER, 2005.

HON'BLE SHRI S.P. ARYA MEMBER (A)

Anil Kumar Srivastava aged about 32 years son of Shri Vishwa Nath Lal Srivastava, resident of 5/637, Viram Khand, Gomti Nagar, Lucknow presently posted at Income Tax Office, Lucknow.

Applicant

By Advocate: Shri U.N. Lal

Versus

1. Union of India through its Chairman, C.B.D.T.
2. C.B.D.T., Income Tax Department, New Delhi.
3. The Chief Commissioner (CCA), Income Tax, Lucknow.
4. The Chief Commissioner of Income Tax, Lucknow.
5. The Commissioner, Income Tax, Lucknow

Respondents.

By Advocate: Sri S.P. Singh for Sri G.K. Singh.

ORDER

BY HON'BLE SHRI S.P. ARYA, MEMBER (A)

The applicant, a temporary status Group "D" employee, moved a representation for regularisation and promotion. He filed an Original Application 294/2004 in which the competent authority was directed to dispose of the representation of the applicant in accordance with rules. The competent authority passed the impugned order dated 14.10.2004 to the effect that the regularisation of the applicant on Group "D" post shall be considered in accordance with Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993 of Government of India as well as Recruitment Rules on availability of Direct Recruitment vacancy cleared by the Screening Committee and Surplus Cell.

2. The applicant by this O.A. seeks for issuance of direction to the opposite parties to regularize the applicant on completion of 3 years of service as

temporary status employee and also promotion along with pay and allowances admissible to Group "D" employees.

3. I have heard learned counsel for the parties and perused the pleadings.

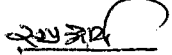
4. It is not disputed that the applicant was not accorded temporary status w.e.f. 24.11.1993 and many of those who were accorded temporary status between 27.7.94 to 24.7.96 have been regularized on Group "D" posts. Grant of temporary status is governed by the Government of India scheme of Casual Labourers (Grant of Temporary Status and Regularisation) dated 10.9.1993. The procedure prescribed by the scheme envisages two vacancies out of three vacancies to go to casual workers with temporary status. A regular Group "D" staff rendered surplus for any reason shall have prior claim for absorption against existing vacancies. The regularisation of the temporary status employee would be treated as a direct recruitment and not promotion. The scheme also prescribes the rendering of continuous service for 240 days or 206 days in a year as the case may be for according temporary status. Thus, it would be clear that the accord of temporary status is based on the number of days a casual labour has worked. The applicant having been given temporary status on 24.11.1993 has not been considered for regularisation though the persons who were given temporary status subsequently have been regularised. The applicant was entitled to be considered for regularisation on Group "D" post before the persons who were given temporary status later, were considered for regularisation.

5. It appears that a Screening Committee in the Department of Revenue has been constituted for preparation of Direct Recruitment Plan as per communication filed as Annexure CR-3. It appears that the Committee was to meet shortly after 3rd December, 2002. The respondents in their counter reply have stated that the vacancies for the post of Chowkidar arisen out of the restructuring can be filled only after clearance of the Screening Committee. The Communication dated 3.12.2002 issued from Central Board of Direct Taxes does not supersede the provisions of 1993 Scheme where the procedure for filling up the Group "D" post has been given. The scheme of 1993 takes care of the absorption of surplus staff. The plea of the respondents that the Screening Committee has to give the clearance for regularisation of the temporary status employee is, therefore, not tenable. Moreover, now it would be about 3 years when the communication has issued and it can safely be presumed that the Screening Committee must have prepared the Direct Recruitment Plan as it was considered to do.

6. In view of the above discussion, Respondent No. 3 is directed to consider the case of regularisation of the applicant within a period of 3 months

from the date of receipt of this order and communicate the decision thereon to the applicant.

7. With the above direction, O.A. is disposed of with no order as to costs.


(S.P. Arya)

Member (A)

HLS/-