

**Central Administrative Tribunal
Lucknow Bench Lucknow**

Original Application No.188/2007
This, the 16th day of September 2008

HON'BLE MR. M. KANTHAIAH, MEMBER (J)

Neeraj Kumar, aged about 35 years, son of Sri Chandra Bhan Mishra
Resident of Mohalla Bajaria Post Chhibramau, District Kannauj.

...Applicant.

By Advocate:- Shri Ratnesh Lal.

Versus.

1. Union of India through Chief Commissioner, Central Excise and Custom, 7-A, Ashok Marg, Lucknow.
2. Commissioner, Central Excise, 7-A, Ashok Marg, Lucknow.
3. Assistant Commissioner, Central Excise, Farrukhabad.

... Respondents.

By Advocate:- Ms. Poonam Sinha.

ORDER

BY MR. M. KANTHAIAH, MEMBER (J)

The applicant filed this OA with a prayer to issue direction to the respondents for considering his candidature for regularization on the post of Safaikarmi / Farrash from the date of initial appointment and also for payment of wages in terms of rules and instructions on the subject and further sought not to change or alter the condition of service of the applicant from daily wager to contractual worker and other consequential benefits.

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2. The respondent have filed Counter affidavit, denying the claim of the applicant stating that he worked only as a casual labour for certain period.

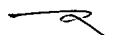
3. Heard both sides.

4. The point for consideration is whether the applicant is entitled for the relief as prayed for.

5. The admitted facts of the case are that the applicant was initially engaged as a Part Time Casual Labour in the month of February, 1991 (Ann.CA-1) and subsequently, as Full Time Casual Labour in the month of August, 1995 *Ann.-CA-2*) and basing on which the applicant made representation for regularization of his services covered under (Ann.-CA-3) Dt. 31.12.2008, which Respondent No.3 forwarded to the 2nd Respondent. It is also not in dispute that appointment of the applicant in the post of casual labour was not in accordance of the rules and also it was not against any sanctioned post.

6. The applicant has sought main relief for regularization of his services on the post of Safaikarmi/ Farrash. The respondents case is, when admittedly, the applicant rendered service only as a casual labour without any sanctioned post and without observing the procedure as per rules, he is not at all entitled for such claim of regularization. The following decision of the Apex Court also supporting the stand taken by the respondents that the casual labour, who worked for particular period is not entitled for regularization.

1. ***(2002) 10 SCC-583 State of Orissa Vs. Chandra Sekhar Mishra.***
2. ***(2006) 7 SCC-488 Accounts Officers (A&I) A.P. S.R.T.C. And Others Vs. P. Chandra Sekhara Rao and Others.***
3. ***(2006) 7 SCC-684 Surinder Prasad Tiwari Vs. U.P. Rajua Krishi Utpadan Mandi Parishad and Others.***



4. (2007) 2 SCC-491 Punjab Water Supply & Sewerage Board Vs. Ranjodh Singh And Others With Punjab Water Supply & Sewerage Board, Hoshiarpur Vs. Hari Har Yadav And Others.

7. The applicant relied OM Dt. 10.09.1993 and basing on which he sought for temporary status but on the date of said OM date. 10.09.1993, the applicant was only a part time casual labour and not even full time casual labour and as such the same is not helpful to the applicant and basing on which, he is not entitled for claiming any benefits for grant of temporary status.

8. When the engagement of the applicant was only a full time casual labour w.e.f. 01.09.1995 in which the terms and conditions have already been mentioned and the applicant is not entitled for any other benefits, which has not been mentioned in the said engagement and as such the claim of the applicant for wages etc. is also not at all maintainable.

9. In view of the above circumstances, there are no merits in the claim of the applicant for any of the reliefs, which he sought in the OA and as such, OA deserves for dismissal.

In the result, OA is dismissed. No costs.


(M. KANTHAIAH)
MEMBER (J)
 16.09.08

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