

**Central Administrative Tribunal, Lucknow Bench,**

**Lucknow**

**Original Application No. 494/2007**

This the 26<sup>th</sup> day of May, 2010

**Hon'ble Dr. A.K. Mishra, Member(A)**

Rajesh Kumar Sahu, Aged about 32 years, S/o Sri Ram Dayal Sahu, R/o House No. 285/240, Karehta Aishbagh, Lucknow, C/o Sri A.N. Tripathi, 23, A.P. Sen Road, Lucknow.

.....Applicant

By Advocate: Sri A.N. Trivedi.

**Versus**

1. Union of India through the Secretary, Information & Technology, New Delhi.
2. Chief Information Officer, Press Information Bureau, Shashtri Bhawan, Dr. Rajendra Prasad Road, New Delhi.
3. Director (Public Relations), Press Information Bureau, Kendriya Bureau, Kendriya Bhawan, First floor, Aliganj, Lucknow.

.....Respondents

By Advocate: Sri S.K. Singh

**ORDER**

This application has been made with a prayer to set-aside the oral termination of the applicant made w.e.f. 4.10.2004 and also for a direction to engage the applicant and permit him to perform his duties granting continuity in his engagement.

2. The applicant was engaged as a daily wage worker on 4.3.2004 allegedly against a substantive vacancy arising out of retirement of Smt. Savitri Devi. The vacancy was notified to the Employment Exchange and on proper selection from amongst candidates sponsored by the Employment Exchange, the applicant was appointed as a daily rated worker. He worked for 211 days, but the respondent-

authority terminated his services on 4.10.2004 without any reason; hence this Application.

3. At the time of hearing, the learned counsel for the applicant highlighted that the applicant was selected on regular basis after being sponsored by Employment Exchange and he was engaged as a daily wage worker against a substantive vacancy; therefore, he has acquired statutory right to continue in service and his service could not be orally terminated without going through the procedure prescribed by law.

4. He further submits that an Industrial Dispute was filed against illegal termination order before the Court of Assistant Labour Commissioner, Lucknow (Central). On failure of conciliation, the Labour Officer declared that Press Information Bureau (PIB), where the applicant was engaged, was not an industry and as such there was no industrial dispute as far as his demand for regularization went the dispute under the Industrial Disputes Act was dropped, on the aforesaid ground on 30.11.2006. There was some delay in getting the documents from the government and filing this Application; therefore, he has made an application for condonation of delay.

5. The learned counsel for the respondents submits that this Application is barred by limitation. Secondly, the nature of his engagement must be determined from the express provisions made in the appointment order annexed as Annexure no. CA-1. He has annexed original order dated 3.3.2004 and subsequent extension granted on 3.6.2004. He points out that both orders were in respect of engagement of the applicant as daily wage worker for a specified period; originally it was for three months which was subsequently extended by another three months. After the need of such engagement was over, his appointment was not further extended. It is not a case of oral termination of appointment, but completion of tenure of a temporary engagement. He placed reliance on Supreme Court's decision in **State of U.P. Vs. Kaushal Kishore Shukla (1991 [1] SCC 691)** wherein it has been observed that any engagement for specified period does not confer any right of continuance after expiry of the time limit.

6. The applicant's counsel is placing reliance on the following decisions:

(i) Jayanta Bandhopadhyay & Another Vs. U.P. Power Corporation Limited, Lucknow & Another reported at 2007 1 UPLBEC 508 (Alld). It says that any party, which approaches a statutory forum in a bonafide manner, is entitled to get the benefit of provisions of Section 14 of Limitation Act. This judgment is not relevant any more as I propose to condone the delay in preferring this Application for the reasons mentioned in the application for condonation of delay and take up this Application for consideration on merits.

(ii) Kerala Water Authority Vs. Surendran reported at 2007 (112) FLR 772). Kerala High Court, on facts of that case, observed that appointment on daily wage basis is usually made without reference to the Employment Exchange; whenever any appointment is made through Employment Exchange, it shows that the appointment was made in respect of the vacancy available for sanctioned post. In that case, the High Court was looking into the claim of the petitioner, therein, to get salary at the minimum of time scale applicable to the post. It was not considering the termination consequent upon completion of tenure; therefore, facts of that case can be distinguished. The High Court had, at the same time, gone to observe that any one who was not appointed on regular basis could not get the benefit of regularization.

(iii) The case relating to Royon International School Karamchari Sangh through its President, Sector V, Noida, Gautam Budh Nagar Vs. State of U.P. & Others reported at 2008 (119) FLR 84 is in respect of reference made by Conciliation Officer. This case law has no relevance as far as the present Application is concerned.

(iv) Satya Prakash & Others Vs. State of Bihar & Others reported at 2010 [125] FLR 517. The Supreme Court held that the casual workers not registered with Employment Exchange should not be appointed on regular basis and those appointed through Employment Exchange and possessing two years continuous service are eligible for appointment on regular basis without further reference to the Employment Exchange. The facts of the present case are again not covered by these guidelines.

(v) The Municipal Council, Ambala Vs. Balvinder Singh & Others reported at 2000 (86) FLR 513). In this case, the Supreme

Court held that the daily wagers having not been appointed against any sanctioned post, were not entitled to relief of regularization.

7. The nature of appointment of the applicant is to be determined from express terms implied in the appointment order. The order dated 3.3.2004 mentions that the applicant was engaged as a daily rated worker on the basis of interview conducted by the authorities for a period of three months from 4.3.2004 to 3.6.2004. The applicant was asked to give his willingness for offer of appointment, which he gave on 4.3.2004. Annexure-4 filed by the applicant himself refers to his own admission as having joined as daily rated worker in terms of appointment order dated 3.3.2004. On completion of first term of three months, it was further extended by another three months, but thereafter no such extension was granted. His engagement orders are very specific that he was being engaged as daily rated worker for a specified period, which was extended by another three months. On completion of extended period, no further extension was granted and his temporary engagement came to an end. In view of these facts, the applicant cannot claim a right of regular employee merely for the fact his name was sponsored by Employment Exchange. It does not prevent the government agency to get names of candidates from Employment Exchange for selection of a casual employee. The decision of Supreme Court, referred to paragraph 5 cited, by the learned counsel for the respondents observes clearly that a temporary engagement for specific tenure will not give any right to a casual worker.

8. In the circumstances, I do not find any merit in this Application, which is accordingly dismissed. No costs.

  
(Dr. A.K. Mishra)  
Member-A