

**Central Administrative Tribunal, Lucknow Bench, Lucknow**

**Original Application No.87/2005**

This the 24th day of January 2008

**Hon'ble Shri Justice Khem Karan, Vice Chairman**

Sanjay Kumar aged about 30 years son of Sri Ram Autar resident of CO. Raghu Nath, Regional Employment Exchange , Charbagh, District- Lucknow.

Applicant

By Advocate: Sri S.K.S. Kalhans

Versus

1. Union of India, through the Secretary to the Govt. of India, Ministry of Health, New Delhi.
2. Additional Director, Central Govt. of Health Scheme, Govt. of India, 9-A, Rana Pratap Marg, Lucknow.
3. Officer-in-Charge, Central Govt. Health Scheme, Dispensary No. 1, Nishatganj, Lucknow.

Respondents

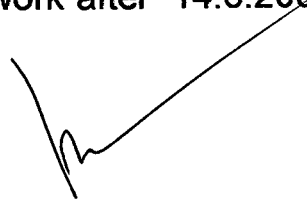
By Advocate; Sri G.K.Singh

**ORDER(ORAL)**

**BY HON'BLE SHRI JUSTICE KEHM KARAN, VICE CHAIRMAN**

Applicant has prayed for quashing order dated 29.1.2004 (Annexure 1) by which opposite party No. 2 rejected his representation for reengaging him as Waterman and for regularizing his services. He has further prayed that the respondents be directed to grant him temporary status and to take him back in job.

2. In short, his case is that he worked for more than 206 days in different spells as Waterman on daily wage basis in the office of Respondent NO. 2, but was not allowed to work after 14.8.2004. He



filed one O.A. No. 436 of 2004 for re-engagement / regularization etc. which this Tribunal disposed of vide order dated 29.10.2004, directing the respondent No. 2 to consider his representation and pass order within the time fixed by this Tribunal. In compliance of those orders, the impugned order dated 29.12.2004 has been passed which the applicant is assailing on number of grounds, such as that after he worked for more than 206 days on daily wages basis, his services could not have been discontinued in this way and he should have been allowed to continue and to have also been conferred temporary status.

3. The respondents have contested his claim on the lines disclosed in the impugned order dated 29.12.2004. They say that since the status of the applicant was that of a daily wager and so he has no valid claim for re-engagement, for conferment of temporary status or for regularization.

4. Sri Kalhans has taken the Tribunal through the contents of the O.A. as well as through the annexures such as Annexure No. 12 dated 10.9.93, regarding conferment of temporary status. He says that such a daily wager who has worked for more than 206 days, should not have been discontinued, rather should have been conferred with temporary status under the scheme of 1993.

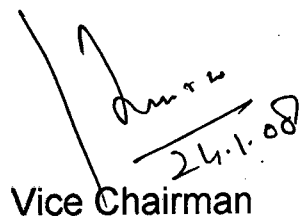
5. Sri G.K. Singh has contended that in view of the constitutional bench decision in Secretary, State of Karnataka and others Vs. Umadevi (3) and others (2006) 4 SCC page 1, such a person as the applicant, has no right to the post and this Tribunal



cannot issue a direction for taking him back or for conferring a temporary status or for regularization.

6. Relying on AIR 2007 SCW 6904 in the case of U.P. State Electricity Board Vs. Pooran Chandra Pandey and others, Sri Kalhans has tried to say that the Constitution Bench decision does not come in the way of the applicant in getting the reliefs so claimed in the O.A.

7. After having considered the respective submissions and having gone through the judicial pronouncement so cited by the learned counsel for the parties in support of their respective contentions, I am of the view that the applicant has no good claim for re-engagement or for conferment of temporary status or for regularization. The reason is that he worked simply as a daily wager and was not inducted under relevant service rules. Such a person, according to the Constitution Bench decision referred to above, cannot successfully maintain a petition for re-engagement or for regularization etc. The case of Sri Pooran Chandra Jain, so cited by Sri Kalhans had different facts and circumstances. The Tribunal finds no good reason to interfere with the impugned order dated 29.12.2004. O.A. deserves to be dismissed. It is accordingly dismissed, but with no order as to costs.

  
24.1.08  
Vice Chairman

HLS/-