

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 921 of 2001.

Dated this Friday, the 7th day of June, 2002.

Kamlesh Moreshwar Karhadkar, Applicant.

Shri S. P. Kulkarni, Advocate for the  
Applicant.

**VERSUS**

Union of India & Others Respondents.

Smt. H. P. Shah, Advocate for the  
Respondents.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

- (i) To be referred to the Reporter or not ? **No**
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ? **No**
- (iii) Library ? **No**

  
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(B.N. BAHADUR)  
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 921 of 2001

Dated this Friday, the 7th day of June, 2002.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Kamlesh Moreshwar Karhadkar,  
Casual Labourer,  
Bhayander Post Office,  
District Thane.  
Residing at -  
A-37, Sai Ashirwad,  
4th floor, B. P. Road,  
Kharigaon, Bhayandar (East),  
(District Thane), Western Railway,  
Thane - 400 105.

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Applicant

(By Advocate Shri S. P. Kulkarni)

VERSUS

1. Union of India through  
Sub-Postmaster (HSG-I),  
Bhayander (W), Post Office,  
P.O. Bhayander,  
Dist. Thane  
Pin Code - 401 101.

2. Superintendent of Post Office,  
Thane West Division,  
At P.O. Mira Road (East),  
W. Railway, Dist. Thane,  
Pin Code - 401 107.

3. Postmaster General (M.R.)  
2nd floor, Old G.P.O. Bldg.,  
G.P.O. Compound, C.S.T.  
At P.O., Mumbai - 400 001.

... Respondents.

(By Advocate Smt. H. P. Shah)

O R D E R (ORAL)

PER : Shri B. N. Bahadur, Member (A).

The Applicant in this case comes up to the Tribunal  
seeking the relief, in substance, that the Tribunal should hold

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*B. N. B.*

and declare that Applicant is entitled to the conferment of temporary status as per Scheme of 1991. He also seeks a direction to the Respondents to act as per Temporary Status Scheme and not to disengage him till work is available. In the pleadings made, details are provided with reference to the engagement of applicant. I have seen all papers in the case, including the case law cited and have heard the Learned Counsel, viz. Shri S. P. Kulkarni for the Applicant and Smt. H. P. Shah for the Respondents. As the matter lies in a short compass and the case has come before this Tribunal in its second round with reference to earlier decision in O.A. No. 553/97 filed by the Applicant, the O.A. has been taken up for final hearing at the admission stage.

2. It will be relevant, straight-away, to record the background of the earlier case. The Applicant had come up to the Tribunal in O.A. No. 553/97, which O.A. was disposed of by order dated 11.01.2001. The main conclusion that was reached by the Tribunal therein was that there was some dispute in the matter of calculation of number of days, in that, whereas the Applicant had claimed that he had worked more than 240 days in a year, the Respondents had denied it. Accordingly, the Tribunal had disposed of the matter by stating as follows :

"14. As regards the conferment of temporary status is concerned, the applicant shall make a detailed representation within 15 days of the order, giving complete number of days for which he has worked and respondents thereupon shall pass a speaking order within a period of 2 months on receipt of representation."

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3. The Applicant had represented in the matter through his representation dated 24.01.2002, (copy at page 18) which representation has been disposed of by the Respondents through the impugned order dated 28.03.2001 (copy at page 12). The representation is disposed of as follows :

"Your representation dated 24.01.2001 received by the undersigned and examined in view of CAT direction from circumstance of the fact and available records.

In your representation you have mentioned that total number of working days are 505 days from June 95 to November 1996. You have also mentioned the period including Sundays and holidays for counting continuous services period.

Your above contention about the period of working days are not correct as the weekly off granted are not to be taken into account for computation of regularisation and counting continuous service period.

As such the representation under reference has been rejected."

4. The Learned Counsel for the Applicant reiterated the arguments and stand taken in the O.A. specially at page 6 and 7, and made the point that the Respondents are wrong in taking the view that the calculations in respect of 240 days should come up only calendar yearwise. In fact, the Learned Counsel for Applicant, Shri Kulkarni, took the support from the case decided by Principal Bench of this Tribunal in the matter of Ravinder Kumar & Others V/s. Union of India reported at 2002 (2) ATJ 55.

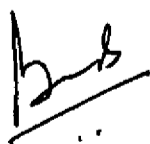
5. Arguing the case on behalf of Respondents, Learned Counsel first took the stand as taken at page 12 of the Written Statement that the work entrusted to the Applicant was purely temporary in

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nature and on daily wage basis and was not assigned to him as a Casual Labourer. Thus, the contention that was raised was that the Applicant was not a Casual Labour as such, and that the judgement being cited apply only to Casual Labourers. This is an argument that cannot be sustained at all and must be dismissed straight-away. I am fortified in this view by the very clarification made in the Government of India instructions issued by the Department of Posts dated 17.05.1989 where it is clarified in unambiguous terms that all Daily Wagers working in Post Office, etc. under various designations like Mazdoor, casual labourers, contingent paid staff, daily wagger, daily rated mazdoor, etc. are to be treated as Casual labourers. The Government instructions are emphatic and clear and it does not lie in the mouth of the Respondents to make the argument being taken.

6. Now let us come to the reasoning given in the very rejection made through impugned order. The impugned order has been reproduced above in para 2. It is clear that the period being taken is from June, 1995 to November, 1996. We come to the very clear statistics at page 39 of the Paper Book sub-para (b). It is seen that between the period 26.06.1995 to 30.05.1996 the total number of days far exceeds 240. From a careful reading of the judgement in the matter of Ravinder Kumar & Others V/s. Union of India cited above we find that the mode of computation, indeed, is satisfying in favour of the Applicant. Headnote para (a) (b) and (c) of the judgement reads as follows :



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"(A) Casual Labour (Grant of Temporary Status & Regularisation) Scheme - Held the Scheme is an on going Scheme - Contention that the Scheme is a one time measure, rejected - Even if a casual labour was not in service but has completed requisite days after 1.9.1993 he is entitled for consideration for accord of temporary status.

(B) Casual Labour - Temporary Status - Non sponsorship through employment exchange is not a disqualification for consideration of a casual labour for accord of temporary status.

(C) Casual Labour - Temporary Status - If a casual labour completes 206 days within a period of 12 months he is eligible to be considered for temporary status - Further while computing the service within one year the year should not be taken as a calendar or financial year - Respondent directed to consider the applicants for accord of temporary status as they have completed the requisite number of service as casual labour.

No further reasoning is required to come to the conclusion that Applicant has come to us with a very good case and is fully justified and the allowing of the same is called for.

7. The O.A. is therefore allowed. Temporary status and benefits accruing as per rules in consequence, are ordered to be granted to the Applicant as per the Scheme of Government of India called as "Casual Labour - Grant of Temporary Status and Regularisation Scheme, 1991". The order shall be implemented within a period of two months from the date of receipt of a copy of this order. No order as to costs.

*B. N. Bahadur*

(B. N. BAHADUR)  
MEMBER (A).

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*24/6/2002*  
Dispatched  
to applicant dependent (s)  
on *24/6/2002*  
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