

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO: 903/2001
DATED THE 1st February, 2002

CORAM: HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT, VICE CHAIRMAN
HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

Shri R.S. Patole,
working as Casual Worker/Peon,
in the Office of the Joint
Director General of Foreign
Trade, Pune and residing at
824, Bhawani Peth,
Pune 42.

... Applicant

By Advocate Shri S. Ramamurthy

V/s.

1. Union of India,
through the Secretary,
Ministry of Commerce,
Government of India,
Udyog Bhavan,
New Delhi - 110 001.
2. The Director General of
Foreign Trade,
Office of Directorate
General of Foreign Trade,
Udyog Bhavan,
New Delhi-110 001.
3. The Joint Director General
of Foreign Trade,
New C.G.O. Building,
New Marine Lines,
Churchgate,
Mumbai - 400 020
4. The Joint Director General
of Foreign Trade,
'C' Block, PMT Commercial,
Complex, Shankar Seth Road,
Swargate, Pune - 411 037.

... Respondents

By Advocate R.K. Shetty

(ORAL) (ORDER)

Per Smt. Shanta Shastri, Member(A)

The applicant had earlier filed OA No. 184/2000 which was
disposed of by order dated 7/4/2001 by this Tribunal. In

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pursuance of the order, representation was made by the present applicant on 28/2/2001 giving details of the number of days that he had worked in the office yearwise from 1995 till 1999. This representation of the applicant was considered and a speaking order was passed on 25/7/2001 rejecting the representation. The ground given is that he had not put in the required number of 206 days of continuous service in terms of the terms and conditions laid down in the DOP&T OM dated 10/9/93. It was further observed that the applicant had failed to furnish documentary evidence of his continuous service of more than 206 days. Thereafter a further letter was issued on 28/11/2001 stating that the applicant is not eligible for grant of temporary status according to the DOP&T OM dated 10/9/93. Also there is no work in any of the office of the Director General of Foreign Trade on regular basis in the Western zone and therefore it is not possible to engage any daily wagers further. It was also pointed out that the applicant was not a party in OA No.576/2001 and therefore consideration of his representation did not arise.

2. The learned counsel for the applicant contends that there was enough documentary evidence to show that the applicant was working for more than 206 days. He has drawn our attention to the statement at page-29 of OA given by the Office of the Joint Director General, Pune. This statement was issued on 15/5/2000. According to this the applicant had put in from 1996 onwards 234days, 227days, 232days and 231days of yearwise continuous service in 1999. When this statement is available, we cannot say that the applicant has not put in 206days of continuous service. This Tribunal had already directed in the judgement in OA-156/2000 dated 7/2/2001 in para-11, that if the applicant had

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put in 206 days service in one year as claimed by him; the respondents have to grant temporary status as per OM dated 1/9/93 of DOP&T though he was 1/9/1993.

3. In view of this, in our considered view, the applicant's case needs to be re-considered and the applicant granted temporary status as already directed. The respondents are directed accordingly.

4. Also the applicant was a party in OA 184/2000. Therefore it is not necessary that he should have been a party in the other OA as observed by the respondents.

5. In the facts and circumstances of the case impugned orders dated 26/7/2001 and 28/11/2001 are quashed and set aside. The OA is allowed. No costs.

6. The applicant's services have been terminated. The respondents are directed to re-engage the applicant and treat him as in service from 20/12/2001 till the date of his re-engagement as continuous service. However, he shall not be entitled to any backwages for the aforesaid period. This may be done within a period of one week from the date of receipt of copy of this order.


(SMT. SHANTA SHASTRY)
MEMBER (A)


(BIRENDRA DIKSHIT)
VICE CHAIRMAN

abp

At 1.2.202

Order/Judgement despatched
to Applicant/Respondent (s)
on 2.2.202