

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.549/95

Date of Order : 30.9.97

BETWEEN:

A.Vijay Kumar

.. Applicant.

AND

1. The Union of India, rep. by its Secretary, Ministry of Finance (Dept of Revenue), North Block, New Delhi.
2. The Collector, Central Excise, Basheerbagh, Hyderabad.
3. The Asst. Collector, Central Excise, Division VIII, Hyderabad.

.. Respondents.

- - -

Counsel for the Applicant

.. Smt.N.Shakti

Counsel for the Respondents

.. Mr.V.Bhimanna

- - -

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

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J U D G E M E N T

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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Heard Smt.N.Shakti, learned counsel for the applicant and Mr.V.Bhimanna, learned standing counsel for the respondents.

2. The applicant in this OA was appointed as a fulltime casual labour w.e.f. 1.11.89 in Patancheru Range III of Central excise Department and his services were terminated by memo No.11/3/3/91 Estt, dt. 20.5.92 in terms of Central Board of Excise and Customs circular F.No.A.12034/13/91/Ad.III B, dt. 30.3.92. He filed OA.492/92 on the file of this Bench challenging his termination order dt. 20.5.92. That OA was

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disposed of in favour of the applicant and hence he was continued in service based on the orders of the Tribunal in the above referred case. It is stated that he is presently paid wages at the rate of Rs.45 per day.

3. The applicant depending on the office memorandum No. 51016/2/90-Estt(C), dt. 10.9.93 (A-2) issued by Ministry of Personnel, Public Grievances and Pensions prays in this OA for regularisation of his services in terms of sub-para (i) of Para-4 of the scheme called Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. As per that scheme, the above said para - 4(1) will come into force w.e.f. 1.9.93 in the case of those casual labourers who are in service on that day. The applicant submits that he was in service as a casual labour on 1.9.93 and hence the above referred para is applicable to him for bringing him on temporary status. He filed a representation for the above relief by representation dt. 7.7.94 (A-3). But it is submitted that the above representation is yet to be disposed of.

4. This OA is filed praying for a direction to the respondents to confer on him the temporary status in terms of O.M.No. 51016/2/90-Estt(C), dt 10.9.93 (A-2) of the Ministry of Personnel, Public Grievances and Pension Department of Personnel and Training and to pay wages at the minimum of the pay scale prescribed for corresponding Group-D employees with retrospective effect i.e. 10.9.93 the date of issue of the said O.M.

5. A reply has been filed in this OA. The main contention of the respondents in the reply is that a clarification has been issued vide O.M.No.49014/2/93-Estt.(C), dt. 12.7.94 to the earlier notification dt. 10.9.93. As per the clarification dated 12.7.93 the temporary status can be granted to those casual labourers who are engaged through Employment Exchange. The applicant has not been engaged through Employment Exchange.

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and hence he cannot be granted temporary status.

6. The above contention of the <sup>respondent</sup> ~~applicant~~ has been fully answered in the judgement of this Tribunal in OA.404/96 dated 3.7.97 (Top Bahadue and another Vs. Union of India, Commissioner of Central Excise, Basheerbagh, Hyderabad). We have held in that judgement that the clarification will come into effect only from the date of issue of the clarification namely 12.7.94 for the reasons stated in the judgement. Hence it has to be held in this OA also that the applicant is entitled for the benefit of the O.M. dt. 10.9.93 even though he does not fulfill the clarification as given in O.M. dt. 12.7.94. The <sup>retrospective provision</sup> ~~contents of~~   
 Contains in the letter dated 12-7-94  
 the OA.404/96 cannot be issued with retrospective date as it upsets the rights already secured by the applicant.

7. It is an admitted fact that the applicant was in service on 1.9.93 when the O.M. dt. 10.9.93 was pressed into service. Hence the applicant is entitled for temporary status in accordance with the sub para (i) of para-4 of the said O.M. dt. 10.9.93. The pay of the applicant should be fixed as a temporary status casual labour in accordance with the rules in force on that day and he is entitled for further benefits on that basis.

8. In the result the OA is allowed. The case of the applicant for bringing him on temporary status in accordance with the O.M. dt. 10.9.93 should be considered even though he is not a candidate sponsored by the employment exchange and his pay in pursuance of the above direction should be fixed from that relevant date. He is entitled for other consequential benefits if any accordingly.

9. The OA is ordered accordingly. No costs.

( R. RANGARAJAN )  
 Member (Admn.)

Dated: 30th July, 1997

( Dictated in Open Court )

sd

*[Signature]*  
 4-88  
 DMC

Copy to :-

1. The Secretary, Ministry of Finance (Dept of Revenue ), North Block, New Delhi.
2. The Collector, Central Excise. Basheerbagh, Hyderabad, .
3. The Assistant Collector, Central Excise, Division VIII, Hyderabad.
4. One Copy to MS.N.Shakti. Advocate C.A.T. Hyderabad.
5. one Copy to Mr .V.Bhamanna, Addl. C.G.S.C. C.A.T. Hyderabad.
6. One copy to The D.R.(A).
7. One Duplicate Copy.

Upr

30/8/97

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR: M  
(J)

DATED: 30.7.97

~~ORDER~~/JUDGEMENT

M.A./R.A/C.A. NO.

in

O.A. NO. 549/95

~~Admitted and Interim directions~~  
~~Issued.~~

Allowed ✓

~~Disposed of with directions,~~

~~Dismissed~~

~~Dismissed as withdrawn~~

~~Dismissed for default~~

~~Ordered/Rejected.~~

No order as to costs.

YLK7

II Court.

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
दस्तावेज/DESPATCH  
27 AUG 1997  
हैदराबाद न्यायपीठ  
HYDERABAD BENCH