(19)

Annexure A5

23

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.404/96

DATE OF ORDER : 03-07-1997.

Between :-

1. Top Bahadur

2. P.Panduranga

.. Applicants

And

1. The Union of India,
rep; by Secretary,
M/o Finance, (Dept. of Revenue),
Govt. of India, North Block,
New Delhi.

2. The Commissioner of Central
Excise, Basheerbagh, Hyd-25.

.. Respondents

-- -- --

Counsel for the Applicants : Shri P.P.Vittal

Counsel for the Respondents : Shri V.Rajeshwar Rao, CGSC

-- -- --

CORAM:

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

-- -- --

... 2.

in the payment of monthly salary.

4. The main contention of the applicants in this OA is that they fulfill the conditions laid down in the memorandum dt. 10-9-93 for bringing them on temporary status from the date of issue of that memorandum.

5. A reply has been filed by the respondents. The main contention of the respondents in denying them the temporary status is due to the fact that the above scheme was ammended by office memorandum No.49014/2/93-Estt.(C) dt.12-7-94 (Annexure R-1 to the counter). As per amended memorandum the temporary status can be granted only to those who were engaged on being sponsored by the Employment Exchange. As the applicants were not sponsored by the employment Exchange, they are not eligible for grant of temporary status under the scheme dt.10-9-93. The second contention of the respondents is that the applicant cannot rely onthe judgement dt.30-6-94 in OA 697/91 as the applicants are not parties to that OA. Hence they cannot be given the relief as granted in the judgement in OA 697/91. The various contentions were analysed as below :-

The office memorandum dt.10-9-93 clearly stipulates the condition for granting temporary status to casual labourers. It is an admitted fact that the applicants were engaged as Casual Labouers and are working 8 hours per day continuously till now. Sub para (i) of para-4 of memorandum dt.10-9-93 indicates the conditions for granting temporary status to the casual labourers working for 8 hours per day. This para is re produced below :-

4. <u>Temporary Status</u>

(i)Temporary status would be conferred

....4.

(22)

25

> on all casual labourers who are in employment on the date of issue of this memorandum and who have rendered a continuous service of at least one year which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 day week).

In terms of the above para, the casual labourers should be in service on 1-9-93, the date on which the scheme came into force and the casual labourers should have been engaged for a period of 240 days to grant them temporary status. The applicants in this OA were engaged in 1990 and 1989 respectively and it is an admitted fact that they are working continuously from that date. Hence there is no doubt that the applicants had worked for 240 days earlier to the introductionof scheme with effect from 1-9-93. It is also an admitted fact that both the applicants were in service on 1-9-93. Hence the applicants complied with the conditions fully and are eligible for grant of temporary status.

7. The only reason given for not granting temporary status is that they were not engaged on being sponsored by the Employment Exchange. As the subsequent ammendment by office memorandum dt.12-7-94 stipulates that the temporary status can be granted only to those sponsored by the Employment Exchange, the applicants were denied the grant of temporary status. The learned counsel for the respondents submit that the memorandum dt.12-7-94 should be read in conjunction with earlier memorandum dt.10-9-93 by which the scheme was introduced. This contention is not a very valid one. By reading the later memorandum dt.12-7-94 along with memorandum dt.10-9-93, the vested right accrued to them is taken away without any justification. Such a denial of the rights already accrued by a later memorandum is to be struck down as arbitrary of constitutional rights under Article 14 and hence

the later memorandum cannot be given retrospective effect (authority 1989 (9) ATC 773 - Haribans Misra & others Vs. Railway Board & Others and AIR 1964 SC 1511 - Mst.Rafiquennessa and others Vs. Lal Bahadur Chetri & Others). This amendment came into effect only from the date of issu of the memorandum..

8. The learned counsel for the respondents brought to my notice para-11 of the memorandum dt.10-9-93 wherein it is stated that "Department of Personnel & Training will have powers to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time". Inview of the above provisions in the memorandum dt.10-9-93, the respondents can amend the earlier memo by a later memo giving retrospective effect to the later memo from the date of issue of first memorandum. The above quoted provisions in the memorandum dt.10-9-93 does not state that the later amendments if any will come into force from the initial date of introduction of the scheme. It merely says that the Department of Personal & Training have powers to amend the provisions of the scheme dt.10-9-93. I have no doubt about the powers of the Department of Personal & Training to modify the scheme to suit the needs. However as observed earlier that such amendments will have only prospective effect and in no way permit the respondents to give retrospective effect. Hence the contention that due to 1994 amendment the benefit of the scheme dt.10-9-93 cannot be extended to the applicants has to be rejected. As the applicants were in service as on 1-9-93 and fulfilled the conditions for grant of temporary status as on that crucial date, they should be brought on temporary status irrespective of the fact whether any amendment was made later to the issue of the initial memorandum of the scheme. Such amend-

...6.

ments will have only propective effect.

9. The applicants relying on the judgement of this Tribunal in OA 697/91 submit that the applicants in that OA are juniors to the present applicants. Hence it will be incongruous if the juniors were given temporary status and seniors were not given the same. The applicants in OA 697/91 were given temporary status in view of the directions in that OA by this Tribunal and that cannot be quoted as a ground for getting the relief for the applicants herein. In the above referred OA 697/91 there is no analysis in regard to the implication of OM dt.12-7-94. In any case even without relying on the judgement, the applicants are entitled to get the relief as prayed for in this OA in view of what is stated above.

10. The learned counsel for the applicants also relies on the judgement of Calcutta Bench of this Tribunal in OA 909/90 and OA 910/90 dt.30-1-95 (Ramnath Paswan & another Vs. Union of India) to state that even if the applicants are not engaged after being sponsored by the Employment Exchange, they are entitled for the regularisation. I do not want to comment on this as the eligibility of the applicants to get temporary status has already been taken in view of the rule position.

11. The applicants also submit that in view of the Apex Court ruling in Pyara Sing's case, they are entitled for grant of temporary status. I do not consider it necessary to go into this contention as the applicants are entitled for grant of temporary status even under departmental instructions.

12. In view of what is stated above, (i) the OA is allowed and the applicants should be granted temporary status with effect from 1-9-93 (ii) the consequential benefits arising out of that status should also be given to the applicants within a period of 3 months from the date of receipt of a copy of this order.

13. O.A. is ordered accordingly. No costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

न्यायालय अधिकारी
COURT OFFICER
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH

True copy
Advocate

(26) Annexure A6 (29)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION No.1313/96

DATE OF ORDER : 03-07-1997.

Between :-

M.Srinivas

.. Applicant

And

1. The Commissioner of Customs & Central Excise, Lal Bahadur Stadium, Basheerbagh, Hyderabad-29.

2. The Asst.Commissioner of Central Excise, Division IX, Ponet Bhavan, Ramkot, Hyderabad.

3. Union of India rep. by its Secretary, M/o Personnel, Public Greviances & Pensions (Dep.t of Personnel & Training), New Delhi.

.. Respondents

-- -- --

Counsel for the Applicant : Shri P.P.Vittal

Counsel for the Respondents : Shri V.Rajeshwar Rao, CGSC

-- -- --

CORAM:

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

-- -- --

... 2.

(27) (30)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

-- -- --

Heard Sri P.P.Vittal, counsel for the applicant and Sri V.Rajeshwar Rao, standing counsel for the respondents.

2. The applicant in this OA was initially engaged as a daily rated casual worker for performing duties of Sweeper in Bonthapalli Range Division-VII of the Central Excise Department at Hyderabad on 18-7-91 at Rs.8/- per day. The fact that the applicant was working from 18-7-91 as full time casual labourer is evident from the letter dt.19-12-97 (Annexure A-1 to OA). The applicant filed representation requesting for grant of temporary status by his letter dt.14-6-96, which was rejected by the impugned order No.C/II/31/17/95-ES-5 dt.27-9-96 (Annexure 5 to the OA).

3. This O.A. is filed praying for a direction to set aside the impugned letter dt.27-9-96 and consequently to grant him the temporary status with effect from 1-9-93, the date when the casual labourers (Temporary Status & Regularisation) Scheme came into force.

4. It is an admitted fact that the applicant is a full time casual labourer. The contentions of both sides and the prayer in this OA are similar to the one submitted in OA 404/96. In view of the reasons given in OA 404/96, which is disposed of today, ~~In view of reasons given in OA 404/96~~ this O.A. is also to be allowed for the same reasons.

5. In the result, the impugned letter No.C/II/31/17/95-ES-5 dt.27-9-96 is set aside. The applicant should be gran-

...3.

(28)

(31)

granted temporary status in accordance with the scheme promulgated by office memorandum No.51016/2/90-Estt (C) dt.10-9-93 and the consequential benefits on that basis should also be granted to him within 3 months from the date of receipt of a copy of this order.

6. The O.A. is ordered accordingly. No costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

न्यायालय अधिकारी
COURT OFFICER
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH

True copy
Advocate

(29)

Annexure A-7

32

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

OA.991/97

dated : 4-8-97

Between

C. Balakrishna : Applicant

and

1. Union of India, rep. by
The Secretary,
M/o Finance, Govt. of India
New Delhi

2. The Commissioner of Central Excise
Basheer Bagh
Hyderabad 500029

3. Supdt. of Central Excise
Azambad I Range
Hyderabad : Respondents

Counsel for the applicant : P.P. Vittal
Advocate

Counsel for the respondents : N.R. Devaraj
Sr. CGSC

CORAM

HON. MR. H. RAJENDRA PRASAD, Member(Admn.)

(30)

(33)

OA.991/97 dated : August 4, 97

Judgement

Oral order (per Hon. Mr. H. Rajendra Prasad, Member(Admn)

Heard Sri P.P. Vittal for the applicant and Sri N.R. Devaraj for the respondents.

1. The facts and circumstances of the case are similar to OA.408/95, 404/96, 1352/96.

2. If the contention of the applicant as regards his continuous service of more than 206 days in any year is correct, and if he is otherwise eligible for grant of temporary status followed by subsequent regularisation in terms of the scheme evolved by the Department of Personnel and Training with effect from 1-9-93, the claim of the applicant shall be considered and necessary relief be granted to him by the respondents. This may be done within 90 days from the date of receipt of copy of this order.

3. Thus the OA is disposed of.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY
Sundar Pandey
6/8/97
न्यायालय अधिकारी
COURT OFFICER
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH

True copy
Advocate

OA 991/97
6-8-97
8-8-97

Annex A8 (34)

(31)

No.49014/2/93-Estt.(C)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

New Delhi, the 12th July, 94

SI No. 49

OFFICE MEMORANDUM

Subject:- Grant of temporary status and regularisation of casual workers.

....

The undersigned is directed to refer to Department of Personnel & Training OM No.51016/2/90-Estt(C), dated 10th Sept. 93 on the subject noted above and to say that many references have been received from various Ministries/Departments seeking clarifications on certain points relating to grant of temporary status to casual labourers.

2. Clarifications in respect of the points raised in the references are given below:-

S.No.	Points raised	Clarifications
1.	Whether the casual employees who were not initially engaged through employment exchange are entitled to the benefit of temporary status.	Since it is mandatory to engage casual employees through employment exchange the appointment of casual employees without employment exchange is irregular. Hence such casual employees cannot be bestowed with temporary status.
2.	Whether temporary status could be granted to the part-time casual employees.	No.
3.	Will the casual labourers initially engaged after crossing the upper age limit prescribed for recruitment to Group 'D' posts be eligible for grant of temporary status?	No age limit has been prescribed for grant of temporary status. However, for the purpose of subsequent regularisation, the conditions regarding age and educational Qualifications prescribed in the relevant recruitment rules will apply.
4.	Will the wages of casual employees would be debited to the Salaries sub-head of the establishment or to the contingent sub-head?	Since the casual employees on grant of temporary status would be entitled for wages on actual basis, their wages will have to be debited to the sub-head wages;

-Contd......2

32 35

	[illegible] casual [illegible] working in [illegible] administrative offices [illegible] 5 days week [illegible] be entitled to the benefit of paid [illegible] off.	Since the facility of paid weekly off is admissible after 6 days of continous work, this would not be admissible to casual employees working for 5 days in a week.
	For the purpose of assessing leave entitlement how should qualifying period be reckoned?	Qualifying period should be reckoned with reference to actual number of days duty performed ignoring days of weekly off, leave and absence etc. All days of duty will be counted irrespective of intervening spells of absence, which do not constitute break in service.
7.	Frequency at which leave will be credited.	Twice a year, on the 1st January and 1st of July credit will be afforded for the preceding half year or fraction, thereof, on a pro-rate basis at the rate of one day for every 10 days of work.

Sd/-

(KRISHNA MENON)

DEPUTY SECRETARY TO THE GOVT. OF INDIA.

To

All Ministries/Departments/Offices of the Govt. of India.

True copy

Advocate

(33)

Annexure A 9 36

OFFICE OF THE COLLECTOR OF CUSTOMS AND CENTRAL EXCISE
CUSTOM HOUSE : PORT AREA : VISAKHAPATNAM-530 035.

C.No.I/22/20/92 - Adm.   Dt. 20.1.94.

ESTABLISHMENT ORDER (N.G.O) NO.1/94.

Sub:- Grant of Temporary Status to Casual Workers - Reg.

The following Casual Workers who were appointed on casual basis are hereby granted temporary status with effect from 01.09.1993.

1. K. Narayanamma	Div I	Sweeper cum Water Carrier
2. S. Appalanarasamma	Div I	Sweeper cum Water Carrier
3. [illegible] Laxmi	Div I	Scavenger
4. [illegible]	Div I	Sweeper cum Water Carrier
5. Ch. Rama[illegible]	Div I	Scavenger
6. P. Sarojini	Div II	Sweeper cum Water Carrier
7. S. Sarojini	Div II	- do -
8. K. Appalanarasamma	Div II	- do -
9. T. Suramma	Div II	- do -
10. V. Appalanarasamma	Div III	- do -
11. G. Suramma	VZM Div	- do -

2. The temporary status has been conferred on them in terms of instructions contained in Office Memorandum No.51016/2/90-Estt (C), dated 10.09.1993 communicated in Circular No.10/93-Coord., dated 24.09.1993 (F.No.12/10/93 Coord.) of Government of India, Ministry of Finance, Department of Revenue.

3. Temporary status would entitle the above casual workers to the following benefits:

i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including D.A., H.R.A., and C.C.A.

ii) Benefits of increments at the same rate as indicated to Group 'D' employees would be taken into account for calculating pro-rata wages for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.

Contd..2

iii) Leave entitlement will be on a pro-rata basis at the rate of one day for every ten days of work. Casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.

iv) Maternity [illegible] admissible to [illegible] Group 'D' employees will be [illegible].

v) 50% of the service rendered under Temporary Status would be counted for the purpose of retirement benefits after their regularisation.

vi) After rendering three years continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two sureties from permanent Government servants of their Department.

vii) Until they are regularised, they would be entitled to productivity linked bonus/ad hoc bonus only at the rates as applicable to casual labourers.

4. No benefits other than those specified above will be admissible to the above casual workers with temporary status.

5. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

(HEMA RADHAKRISHNAN)
ADDITIONAL COLLECTOR OF CUSTOMS
AND CENTRAL EXCISE.

To,
The Individuals.

Copy to:
1. The Assistant Collector, Division I, II, III and Vizianagaram Division.
2. Pay & Accounts Officer, Visakhapatnam.

/Attd

True copy
[illegible]
Advocate

(38)

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

Original Application No. 1452/97

DATE OF DECISION: **31-10-97**

P. Ravi Kumar ---------------------- Petitioner(s)

P.P. Vittal ---------------------- Advocate for the Petitioner(s)

Versus

Commissioner, Central Excise Hyderabad and 2 others ---------------------- Respondent(s)

V. Rajeswara Rao ---------------------- Advocate for the Respondent (s)

THE HON'BLE SHRI **H. RAJENDRA PRASAD, MEMBER(ADMN.)**

THE HON'BLE SHRI

1. Whether Reporters of local papers may be allowed to see the judgement? No.

2. To be referred to the Reporter or not? No.

3. Whether their Lordships wish to see the fair copy of the Judgement? No.

4. Whether the Judgement is to be circulated to the other Benches? No.

avl/

Judgement delivered by Hon'ble Shri **H. Rajendra Prasad, M(A)**

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

OA.1452/97 dt.31-10-97

Between

P. Ravi Kumar : Applicant

and

1. The Commissioner of Central Excise
Basheer Bagh
Hyderabad 500029

2. The Supdt. of Central Excise
Contonment Range
Secunderabad

3. Union of India, rep. by
The Secretary, Min. of Finance
Govt. of India
New Delhi : Respondents

Counsel for the applicant : P.P. Vittal
Advocate

Counsel for the respondents : V. Rajeswara Rao
CGSC

CORAM

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

40

OA. 1452/97 dt.31-10-97

Order

Oral order (per Hon. Mr. H. Rajendra Prasad, Member(Admn.)

Heard Mr. P.P. Vittal for the applicant and Mr.V. Rajeswara Rao for the respondents.

1. The applicant claims to have rendered a continuous requisite service in successive years for the purpose of temporary status and regularisation. He continues to be in casual employment till date. He merely prays that his case be examined in terms of scheme promulgated by the Government of India, Ministry of Personnel, in September, 1993, regarding grant of temporary status and regularisation of casual workers.

2. This issue has been examined in some earlier cases and certain directions have been issued. Three such cases have been cited by the applicant (Annexure 5 to 7). There are no new questions or issues to be examined afresh. The respondents are directed to scrutinise the claim of the applicant in terms of the provisions of relevant scheme and take a suitable decision within 90 days from the date of receipt of copy of this order.

3. Thus the OA is disposed of at the admission stage.

(H. Rajendra Prasad)
Member(Admn.)

Dated : October 31, 97
Dictated in Open Court

sk

41

OA.1452/97

Copy to:-

1. The Commissioner of Central Excise, Basheer Bagh, Hyderabad.
2. The Supdt. of Central Excise, Contonment Range, Secunderabad.
3. The Secretary, Ministry of Fiaance, Govt. of India, New Delhi.
4. One copy to Mr. P.P.Vittal, Advocate, CAT., Hyd.
5. One copy to Mr. V.Rajeswara Rao, Addl.CGSC., CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate.

srr

18/11/97

I Court.

TYPED BY: CHECKED BY:

COMPARED BY: APPROVED BY:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BBE MR.JUSTICE.
VICE-CHAIRMAN

And

THE HON'BLE MR.H.RAJENDRA PRASAD :M(A)

DATED:- 31-10-97

ORDER/~~JUDGMENT.~~

~~M.A../RA../C.A.No..~~

in

O.A.No. 1452/97

T.A.No. (W.P.).

Admitted and Interim directions issued.

Allowed

Disposed of ~~with Directions.~~

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejedted

No.order as to costs.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH
17 NOV 1997
हैदराबाद न्यायपीठ
HYDERABAD BENCH

OA. 1452/97   dt.31-10-97

Order

Oral order (per Hon. Mr. H. Rajendra Prasad, Member(Admn.)

Heard Mr. P.P. Vittal for the applicant and Mr.V. Rajeswara Rao for the respondents.

1. The applicant claims to have rendered a continuous requisite service in successive years for the purpose of temporary status and regularisation. He continues to be in casual employment till date. He merely prays that his case be examined in terms of scheme promulgated by the Government of India, Ministry of Personnel, in September, 1993, regarding grant of temporary status and regularisation of casual workers.

2. This issue has been examined in some earlier cases and certain directions have been issued. Three such cases have been cited by the applicant (Annexure 5 to 7). There are no new questions or issues to be examined afresh. The respondents are directed to scrutinise the claim of the applicant in terms of the provisions of relevant scheme and take a suitable decision within 90 days from the date of receipt of copy of this order.

3. Thus the OA is disposed of at the admission stage.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

Court Officer/Dy. Registrar
Central Administrative Tribunal
HYDERABAD BENCH

केस संख्या
CASE NUMBER OA 1452/97
निर्णय का तारीख
Date of Judgement 31/10/97
Copy Made Ready on 12/11/97

Section Officer (J)/Dy. Registrar (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

OA.1452/97 dt.31-10-97

Between

P. Ravi Kumar : Applicant

and

1. The Commissioner of Central Excise
Basheer Bagh
Hyderabad 500029

2. The Supdt. of Central Excise
Contonment Range
Secunderabad

3. Union of India, rep. by
The Secretary, Min. of Finance
Govt. of India
New Delhi : Respondents

Counsel for the applicant : P.P. Vittal
Advocate

Counsel for the respondents : V. Rajeswara Rao
CGSC

CORAM

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

FORM NO. 21.

(Sec. Rule 114.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD.

CP 80/98

O.A/ ~~T.A~~ ....1452.................. 1997

..............P. Ravi Kumar..........Applicant (s)

Versus

..............M.V.S. Prasad Commissioner

....Central Excise & Customs Hyd..............

Respondent(s)

INDEX SHEET

Serial No.	Description of documents and dates.	Pages.
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Orders in M.A (s)		
Reply Statement		
Rejoinder		
ORDERS in(Final orders)	14.8.98	10 to 12

Certified that the file is complete in all respects.

28/8/98

Signature of Dealing Hand.

(In record section)

Signature of S. O.

(SEE Rule 12) Form No.4

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

ORDER SHEET

CP.NO. 80/98 in.

OA.NO. 1452/97.

P. Ravi Kumar Applicant(s)

Through M/s. Advocate

VERSUS

M.V.S. Prasad, Commissioner (I) Central Excise & Customs, Hyd & 2 oth Respondents(s)

By. Mr. CGSC

Date	Note of the Registry	Order of the Tribunal
23-7-98	Notice in CP 20/8/98 CY 24/7/98 Issued 28/7/98	Notice Reply in 4 weeks. To be listed thereafter. HBSJP M(J) HHRP M(A) 23/7
14-8-98		CP closed. order vide separate sheets. no costs. HBSJP M(J) HRRN M(A)

2

MEMORANDUM OF CONTEMPT PETITION

(UNDER SECTION 17 OF ADMINISTRATIVE TRIBUNALS ACT,1985)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,HYDERABAD BENCH

CONTEMPT PETITION NO. 80 OF 1998

IN

OA NO. 1452 OF 1997

BETWEEN

P.Ravi Kumar S/O P.Balaiah,
Aged 25 yrs o/o Suptd, Of Central Exercise,
Cantonment range , Secunderabad ....Applicant/Petitioner

AND

1. Shri. M.V.S. Prasad,
Commissioner (1) Central Excise & Customs,
Basheerbagh, HYDERABAD — Respondent/contemnor

2. ~~Suptd. Of Central Excise,
Moulali range , HYDERABAD.~~
3. ~~Union of India represented by Secretary
Ministry of finance, Govt. of India
NEW DELHI~~ — Respondents/respondents
(Not necessary parties)

For the reasons mentioned in the accompanying affidavit, it is respectfully prayed that this Hon'ble Tribunal may be pleased to take cognizance of the offence committed by the first Respondent namely Shri.M.V.S. Prasad, Commissioner (1), Central Excise & Customs, Basheerbagh, Hyderabad in respect of the orders of this Hon'ble Tribunal dated 31-10-1997 in OA No.1452 of 1997 and direct him to appear before this Hon'ble Tribunal and may be pleased to pass such order of further orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

Counsel for Applicant/Petitioner

Date 9-6-98

HYDERABAD

Received
13-7-98
for V. Rajeshwar

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL BENCH:AT HYDERABAD

C.P NO. OF 1998

IN

OA NO. 1462 OF 1997

BETWEEN

P.RAVI KUMAR APPLICANT/APPLICANT

AND

Sri M.V.S Prasad,
Commissioner (I),
Central Excise &Customs,
Basheerbagh, Hyderabad
AND TWO OTHERS RESPONDENTS/RESPONDENTS

AFFIDAVIT

1. I P.RAVI KUMAR S/O P.BALAIAH, aged 25 yrs employed as casual worker (sweeper)in the office of Supt. Of Central excise at Cantonment range, Hyderabad do hereby solemnly and sincerely affirm and state on Oath as follows:

2. I am the applicant herein as such I am well acquainted with the facts of the case.

3. I joined the central excise Department at Cantonment range, Hyderabad under Respondent No.2 on 14-6-1991 as a full time contingent worker (sweeper) on daily wages. I am being paid monthly at the rate of Rs.45/= per day excluding Sundays and holidays. The Govt. Of India through the Depart-

ment of Personnel and Training formulated a scheme known as "Casual laborers (grant of temporary status and regularization)Scheme 1993" by which "Temporary Status" is required to be conferred on all casual laborers who are employed as on 1-9-93 and rendered continuous service of one year (206 days in the case of offices observing five days a week). Though I have fulfilled the criteria laid down in the said scheme I was not granted Temporary status resulting in filing of OA No.1452 of 1997 in this Hon'ble Tribunal.

4.This Hon'ble Tribunal was pleased to hear the matter on 31-10-97 and issued directions , the operative portion of which is as under (Annexure A1).

> "This issue has been examined in some earlier cases and certain directions have been issued. Three such cases have been cited by the applicant (Annexure 5 to 7). There are no new questions or issues to be examined afresh. The respondents are directed to scrutinize the claim of the applicant in terms of the provision of relevant scheme and take a suitable decision within 90 days from the date of receipt of copy of this order".

4. I submit that in respect of the three matters (Annexures 5 to 7) namely O.A No 404/96 OA 1313/96 & OA 991/, as also in another four similar cases, the Respondent (1) granted "Temporary Status" to the casual labour mentioned therein with effect from 1-9-93 as could be seen from establishment Order (NGO) No.21 of 97 dated 13-9-97 issued by the office of the Commissioner(1) Customs And Central Excise(Anexure A2). It is also understood

that in all these matters the arrears of pay from 1-9-93 have been also distributed to all the nine applicants therein.

6. I Submit that inspite of passage of more than seven months from the time of receipt of the Orders of this Hon'ble Tribunal, as against a time frame of 90 days, fixed by the Tribunal, the Respondents discriminated and deliberately did not grant "Temporary Status" to me causing monetary loss and deprivation of basic necessities of life. I also got issued a legal Notice on 24-3-98 requesting the Respondents to comply with the directions of this Hon'ble Tribunal but of no avail. Hence I am left with no other effective alternative for obtaining compliance of the directions dated 31-10-97 of this Hon'ble Tribunal by the 1st respondent than to invoke the jurisdiction of this Hon'ble tribunal under section 17 of the Administration Tribunal Act,1985.

7. I therefore pray that in view of the facts mentioned above this Hon'ble Tribunal may be pleased to take cognizance of the offence committed by the Commissioner (1) Central Excise Customs, Hyderabad in respect of the directions dated 31-10-97 of this Hon'ble Tribunal in OA No. 1452 of 1997 and direct him to appear before this Hon'ble Tribunal and may be pleased to pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

P. Ravi Kumar

DEPONENT

Sworn and signed before me

(ADVOCATE) 9/6/98

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Annexure A1

SEAL OF THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

OA.1452/97

dt.31-10-97

Between

P. Ravi Kumar : Applicant

and

1. The Commissioner of Central Excise
Basheer Bagh
Hyderabad 500029

2. The Supdt. of Central Excise
Contonment Range
Secunderabad

3. Union of India, rep. by
The Secretary, Min. of Finance
Govt. of India
New Delhi : Respondents

Counsel for the applicant : P.P. Vittal
Advocate

Counsel for the respondents : V. Rajeswara Rao
CGSC

CORAM

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

(5)

(7)

OA. 1452/97

dt.31-10-97

Order

Oral order (per Hon. Mr. H. Rajendra Prasad, Member(Admn.)

Heard Mr. P.P. Vittal for the applicant and Mr.V. Rajeswara Rao for the respondents.

1. The applicant claims to have rendered a continuous requisite service in successive years for the purpose of temporary status and regularisation. He continues to be in casual employment till date. He merely prays that his case be examined in terms of scheme promulgated by the Government of India, Ministry of Personnel, in September, 1993, regarding grant of temporary status and regularisation of casual workers.

2. This issue has been examined in some earlier cases and certain directions have been issued. Three such cases have been cited by the applicant (Annexure 5 to 7). There are no new questions or issues to be examined afresh. The respondents are directed to scrutinise the claim of the applicant in terms of the provisions of relevant scheme and take a suitable decision within 90 days from the date of receipt of copy of this order.

3. Thus the OA is disposed of at the admission stage.

CERTIFIED TO BE TRUE COPY

CASE NUMBER O.A. 1452/97

31/10/97

12/11/97

Section Officer (J), Dy. Registrar

True Copy

Advocate

(6) Annexure A2 (8)

OFFICE OF THE COMMISSIONER OF CUSTOMS AND CENTRAL EXCISE
HYDERABAD-1 COMMISSIONERATE
LAL BAHADUR STADIUM ROAD :: BASHEERBAGH :: HYDERABAD-500 004

ESTABLISHMENT ORDER(NGO)NO.21/97
Dated the 13th September, 1997

Sub:-Estt. - Grant of Temporary Status to Casual Workers - Regarding.

...

The following Casual workers who were appointed on casual basis are hereby granted temporary status with effect from 01.09.93 consequent on the Judgement delivered by the Hon'ble CAT Hyderabad Bench, Hyderabad in OA No.408/95, 549/95, 982/95, 404/96, 1313/96, 991/97 & 967/96.

	S/Shri	
1.	P.Damodar	Hyd-V Divn, Hyd-III Commnr'te
2.	A.Vijay Kumar	Hyd-VIII Divn, Hyd-I Commnr'te
3.	M.D.Prabhakar	Hyd-III Divn, Hyd-III Commnr'te
4.	P.Sadanand	Hyd-III Divn, Hyd-III Commnr'te
5.	Top Bahadur	Hqrs.Office, Hyd-1 Commn'te.
6.	P.Pandu Ranga	Hyd-VII Divn, Hyd-I Commnr'te
7.	M.Srinivas	Hyd-IX Divn, Hyd-III Commnr'te
8.	V.S.Chander	Hyd-IV Divn, Hyd-I Commnr'te
9.	C.Balakrishna	Hyd-V Divn, Hyd-III Commnr'te

2. Temporary status would entitle the above Casual workers to the following benefits:

i) Wages at daily rates with reference to the minimum of the pay scale for a corrresponding regular Group'D' Official including D.A, H.R.A and C.C.A.

ii) Benefits of increments at the same rate as indicated to Group 'D' employee would be taken into account for calculating pro-rata wages for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.

iii) Leave entitlement will be on a pro-rata basis at the rate of one day for every ten days of work casual or any otherkind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.

iv) Maternity leave to lady casual labourers as admissible to regular Group'D' employees will be allowed.

v) 50% of the service rendered under Temporary status would be counted for the purpose of retirement benefits after their regularisation.

vi) After rendering three years continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same condition as are applicable to temporary Group'D' emoployees, provided they furnish two sureties from permanent Government servants of their Department.

Contd...2/-

1) Sufficient value welfare stamp to be affixed to the vakalat.

2) Service to be effected on the other side.

Complied with on 14-7-98

1/7/98

14 days time

Contempt Petition

In the CAT Bench Hyderabad.

C.P. No. of 1998

in

O.A. No. 1452 of 1997

Filed on 12-6-98.

Rcv. Sent to Records on 30/6/98

P.P. Vittal
Advocate

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

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C.P.No.80/98 in
O.A.No.1452/97.

Dt. of Decision : 14-08-98.

P.Ravi Kumar .. Applicant.

Vs

Shri M.V.S.Prasad,
Commissioner (1) Central
Excise & Customs,
Bhasheerbagh, Hyderabad. .. Respondent.

Counsel for the applicant : Mr.P.P.Vittal

Counsel for the respondent : Mr.V.Rajeswara Rao, Addl.CGSC.

CORAM:-

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

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

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ORDER

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

Heard Mr.P.P.Vittal, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned counsel for the respondent.

2. The learned counsel for the applicant submits that after filing of the CP the direction has been implemented. Hence, he prays for withdrawing of the CP. He is permitted to withdraw the CP.

3. The CP is closed. No costs.

(B.S.JAI PARAMESHWAR)
MEMBER (JUDL.)

(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 14th August, 1998.
(Dictated in the Open Court)

DR

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Copy to:

1. Shri M.V.S.Prasad, Commissioner(1), Central Excise & Customs, Basheerbagh, Hyderabad.
2. One copy to Mr.P.P.Vittal,Advocate,CAT,Hyderabad.
3. One copy to Mr.V.Rajeswara Rao,Addl.CGSC,CAT,Hyderabad.
4. One duplicate copy.

YLKR

248/98

OA D/o on 31.10.97

II COURT

TYPED BY CHECKED BY
COMPARED BY APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 14/8/98

ORDER/JUDGMENT

~~M.A/R.A~~/C.P.NO. 80/98

in

O.A.NO. 1452/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

CP closed.

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH
21 AUG 1998
हैदराबाद न्यायपीठ
HYDERABAD BENCH