

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.No.573/99

Date of order: 03-11-99

Between:

Fatima Bee

...Applicant

And

1. Chief Commissioner,
Central Excise & Customs,
Bashirbagh, Hyderabad.
2. Assistant Commissioner of
Central Excise, Subashnagar,
Nizamabad.
3. Union of India rep. by the
Secretary, Ministry of Finance,
Govt. of India, New Delhi.

...Respondents

Counsel for the applicant - Mr.P.P.Vittal, Advocate

Counsel for the Respondents - Mr.B.Narasimha Sharma, Sr.CCSC

CORAM:

THE HON'BLE MR.JUSTICE D.H.NASIR : VICE-CHAIRMAN

...

Order

Heard the learned counsel Mr.P.P.Vittal for the applicant and the learned standing counsel Mr.M.C.Jacob for Mr.B.Narasimha Sharma for the respondents.

2. The respondents in this OA are sought to be directed to grant 'Temporary Status' to the applicant in terms of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 1993 (Annexure A2 to OA) with effect from 1.9.1993 and consequential benefits.

3. The applicant was appointed as Sweeper-cum-Water carrier (Casual labour) at Shakkernagar in Central Excise & Customs with effect from 1.3.1992 and she has been continuously

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working in the said office under the jurisdiction of Respondent no.2.

4. According to the learned counsel for the applicant the Govt. of India through Dept. of Personnel & Trg. formulated a scheme known as "Casual Labourers (Grant of temporary status and Regularisation) Scheme", 1993 which came into force from 1st Sept., 1993 and made applicable to the casual labourers who were in employment as on 10-9-1993 in the Ministries/ Departments of the Govt. of India and their attached subordinate offices, except to the Department of Railways, Telecommunications, etc. who already had separate schemes. Rule 4 (i and ii) of the scheme in question reads as under:-

* 4. Temporary Status :

- i) Temporary Status would be conferred on all casual labourers who were in employment on the date of issue of this OM and who have rendered a continuous service of atleast one year, which means that they must have been engaged for a period of atleast 240 days (206 days in the case of offices observing 5 days a week).
- ii) Such conferment of Temporary Status would be without reference to the creation/availability of regular Group 'D' posts. "

5. The applicant's case is that, though she had put in 1 year and 6 months of continuous service by the date of promulgation of the above scheme i.e. 1st September, 1993 and fulfilled the criteria prescribed in the said scheme for ^{the Respondent did not grant to} grant of 'Temporary Status' to her in contravention of the rules framed by the nodal Ministry, namely the Ministry of Personnel, Public Grievances and Pensions. The applicant made repeated representations in the matter, the last of which was submitted on 21.4.1998, for grant of 'Temporary Status'. However the respondents did not pay any heed to the same.

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6. The only objection to the above proposition by the learned standing counsel Mr. M.C. Jacob for respondents was that the applicant was a part time casual labourer, and hence not entitled to temporary status under the scheme of 1993. However, it is abundantly clear from the report dt.13.1.99 submitted by the Assistant Commissioner of Central Excise, Nizamabad Division, Nizamabad, that the present applicant who was aged 30 years had been working since March, 1992 in the Divisional Office and wages were paid to her @ Rs.8/- per day from March, 1992 to June, 1995. It is further stated in page 2 of the report that as per the contingent bill register the wages were paid for the number of days as certified by the P.R.O. It is also stated in the report that the applicant has completed more than 206 days of service continuously upto 1.9.1993 as a full time casual worker.

7. A similar situation arose before this Tribunal in a group matter viz. in OA.561/99, 566/99, 567/99 & 581/99 in which the bench was confronted with the same situation. In paragraph 17 of the earlier judgement this Bench observed that, on the question of disability on account of part time employment there were two conflicting reports before the Bench, one dt.18.2.1994 of the Asst.Commissioner of Central Excise (D&E), Headquarter Office, Hyderabad and the other dt.13.1.1999 which was also submitted by Asst.Commissioner to the Dy.Commissioner of Central Excise (P&V), Hyderabad-I ^{it emerges from} Commissionerate. It is further ~~stated in~~ the said order that the first report denies and the second report confirms that the applicant was on full time casual worker on the relevant date. If the report submitted in 1994 (18.2.1994 to be precise) asserted that the applicant was working as part time employee at the relevant time, why did it become

necessary after as many as 5 years to call for second report in 1999 which disclosed that the applicant was a full time worker at the relevant date is left unsubstantiated. Moreover, the respondents do not seem to have expressed their disagreement with the particulars mentioned in the report dt.13.1.99 and not sought any clarification or explanation from the author of the report at any stage prior to the denial made in the reply affidavit filed on 18-6-99 in the said OA.

8. It is further stated in paragraph 19 of the earlier judgement that the learned standing counsel Mr. B.N. Sharma did make submissions during the course of arguments, as stated in para 7 of the judgement, but the same had not been substantiated by producing any material on the record of that case. Mr. Sharma referred to a letter in this regard calling for R-2's explanation. If that was so, no oral submission in that regard could be entertained or accepted unless the documentary evidence the existence of which is revealed from the contentions raised in para 5(c) of the reply affidavit as well as from the oral submissions made by the counsel, was produced on the record of the case. Therefore, in that view of the matter the contentions raised by the respondents against the applicant's case could not be upheld. With the above observations the bench was pleased to allow all the 4 OAs with a direction to the respondents to confer 'Temporary Status' on all the 5 applicants of those cases w.e.f. the respective date of the OA or from a day prior to the conferment of temporary status on their similarly situated juniors, whichever was earlier.

9. The fact, situation is same in the present case, and therefore there is no reason why the present OA also should not be disposed of with the same direction.

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10. Thus, this OA is disposed of with a direction to respondents to confer the temporary status on the applicant with effect from the date of filing of the present OA or from a day prior to the conferment of temporary status on similarly situated juniors, whichever is earlier.

The OA is disposed of accordingly. No costs.

D.H.N.
(Justice D.H.Nasir)
Vice-Chairman

Dated: 3rd November, 1999
'SA' (Order dictated in the open court) *D.H.N.*
17/11/99

GIR
10/12/99

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

C1ST AND 2ND COURT

COPY TO :-

1. BBHNJ
2. HRRN M (A)
3. B2SJP M (J)
4. D.R. (A)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE HON'BLE MR. JUSTICE D.H.NASIR

VICE - CHAIRMAN

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

THE HON'BLE MR.B.S.JAI PARAMESWAR :
MEMBER (JUDL.)

* * *

DATE OF ORDER: 3/11/99

MA/P/CP/No.

in
OAI NO. 573/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

(8 copies)

CP CLOSED

RA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal
शेषण / DESPATCH

3 DEC 1999

हैदराबाद न्यायालय
HYDERABAD BENCH