

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A.No.1211/99.

Date of Decision: 13-03-2000.

1. N.Yadaiah
2. V.Ashok
3. Smt.M.Viswanidevi
4. P.Ravinder
5. J.Karunakar
6. L.Venugopal
7. N.Narsing Rao
8. D.Srinivasa Reddy
9. D.Shanker

.. Applicants.

Vs

1. The Union of India rep. by its Secretary,
Min. of External Affairs, Govt. of India,
Department of Passports & Emigration, New Delhi.
2. The Chief Passport Officer and Joint Secretary,
Min. of External Affairs, Govt. of India,
Department of Passports & Emigration,
New Delhi.
3. The Regional Passport Officer,
Regional Passport Office,
D.No.8-2-215 to 219, Kummarguda,
Adjacent to Prasanth Theatre,
Sec'bad.
4. The Assistant Commissioner of Labour (Central),
Abids, Hyderabad.

.. Respondents.

Counsel for the applicants : Mr.N.Ramamohan Rao

Counsel for the respondents : Mrs.P.Madhavi Devi, Addl.CGSC.

CORAM:-

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

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

ORDER

ORAL ORDER (PER HON. SHRI B.S.JAI PARAMESHWAR: MEMBER (JUDL.))

None for the applicants. Heard Mrs.P.Madhavi Devi, learned counsel for
the respondents.



2. There are 9 applicants in this OA. They are working on casual basis under the respondent department. They rely upon the scheme dated 10-9-93, which envisages regularization of casual workers and for grant of temporary status. Based upon the said scheme the 3rd respondent issued office order bearing No.F.16(1)AD/85 dated 4-5-94 conferring temporary status and regularization of the casual labourers detailed in the annexure to the said letter. The names of the applicants are at Sl.No. 4, 5, 6, 8, 12, 9, 10, 11 and 15 respectively. However, the respondents No.3 by his order dated 5-7-94 cancelled the grant of temporary status to all the individuals except Sri T.Sudhir Kumar and Smt. Vanita Kumari in the annexure to the letter dated 4-5-94 in view of the fact that the said two officials were appointed through employment exchange (Annexure-II).

3. Subsequently, the applicants submitted a representation to the Respondent No.1 and sought for details regarding those casual labour who have been engaged otherwise than through employment exchange prior to 7-6-98 and who fulfil^{led} all other conditions for grant of temporary status in office Memorandum dated 10-09-93. The said particulars were furnished by the Respondent No.3. The Government of India by his letter dated 27-06-95^{instanted} to confer temporary status upon those casual labour who were engaged otherwise than through employment exchange prior to 7-6-98 and fulfil^{led} the conditions laid down in O.M. dated 10-09-93. Accordingly, the 3rd respondent issued office order bearing No.Hyderabad/578/1/95. Dated 6-7-95^{inst} granted temporary status to the applicants along with certain persons who were similarly placed. That status was continued from 1995 onwards till the impugned orders were passed. By the impugned order dated 21-07-99 the temporary status granted to the applicants herein was cancelled. Hence, they have filed this OA to call for the records relating to the proceedings No.Hyderabad/578/1/95 dated 21-07-99 issued by the Respondent No.3 and quash or set aside the same holding it arbitrary, illegal, unjust and for a consequential direction that the applicants were liable to be treated as casual labour with temporary status thereby enabling them to obtain all the benefits as per the scheme dated 10-09-93.

4. The respondents have filed their reply. They submit that the applicants were not recruited through^{the} employment exchange that they were either relatives or known



persons of the regular staff who have^d sponsored their names. The applicants were engaged as casual labours on daily wage basis depending upon the exigencies of the work. They were disengaged when there was no need for engagement of such casual labours. They submit that engagement of casual labourers through^{the} employment exchange was an implied condition but it was not specifically mentioned in the scheme at the time it was initially circulated. The temporary status was conferred upon the applicants who were not engaged through^{the} employment exchange and subsequently the Department of Personnel and Training Circular No.49014/2/93 Estt. Dated 12-7-94 a clarification was issued for conferring temporary status, initial engagement through employment exchange was a mandatory condition. After knowing that the engagement of casual labourers through employment exchange was mandatory principle for grant of temporary status to the casual labourers, all the passport officers were instructed to grant temporary status upon eligible casual labourers only who fulfilled the conditions stipulated in the DoP&T circular. They submit that a clarification issued by the DoP&T they came to know that certain casual labourers were conferred temporary status erroneously. Accordingly, the temporary status conferred was withdrawn. They submit that those casual labourers who were engaged prior to 7-6-98 would have been granted temporary status even though their names were not sponsored through^{the} employment exchange. They submit that the persons who were engaged on casual basis prior to 7-6-98 need not come through employment exchange is not a correct submission. They rely on the circular of DoP&T bearing No.499014/18/84-Estt.© dated 7-5-85 wherein it was stated that no appointment of casual labourers should be made in future otherwise than through employment exchange and further it was made clear that any deviation of this regard if committed, responsibility should be fixed and appropriate departmental action to be taken against the official concerned. Thus they submit that even those casual labourers who were engaged prior 7-6-98 were also required forward through^{the} employment exchange. They further cited the instructions^{regarding} of granting temporary status to certain casual labourers working in Passport Officer, Trivandrum and withdrawn by the passport officer. Those casual labourers had approached the Ernakulam Bench of this Tribunal for restoration of temporary status. The Ernakulam Bench of this



Tribunal in its order dated 26-7-96 quashed the order of passport officer, Ttiyandrum by which the temporary status was withdrawn. Against the said order the respondents preferred S.L.P. (Civil(No.3386/1997 and C.C.No.734/97) ^{Before the Apex Court which on 27.1.97} set aside the order of the Tribunal and restored the orders of the respondent department on the basis of the clarification issued by the DoP&T.

5. The O.M. dated 12-07-94 has clarified for the benefits of temporary status could not be granted to casual workers who were recruited otherwise than through employment exchange, the applicants cannot take any remedy of shelter as the matter have been finally decided by the Hon'ble Supreme Court. Thus, they rely upon the decision of the Hon'ble Supreme Court to contend that the applicants are not sponsored through employment exchange and that by the impugned order temporary status granted to them was withdrawn and there are no reasons to interfere with the impugned order.

6. The main contention of the respondents in canceling the temporary status granted to the applicants is that they were not engaged through ^{the} employment exchange. Further, on the basis of the clarification issued by the DoP&T they ^{do} withdraw the temporary status conferred on the applicants. The applicants have not stated that they were engaged through employment exchange. Further, they have not disputed the position explained by the respondents in respect of the orders passed by the Ernakulam Bench of this Tribunal and set aside by the Hon'ble Supreme Court in SLP (Civil) No.3386/97 and CC No.734/97. Further, the respondents have categorically stated that the applicants were appointed by relatives or known persons of the regular staff and that they were engaged only when there was need for casual work.

7. The learned counsel for the applicants relies on the judgement of this Tribunal in OA.5/95 decided on 12-08-97 and the judgement of the appellate Court against this order in W.P.1079/99 upholding that all those who have been appointed irrespective of the fact whether they came through employment exchange or not should be brought into temporary status.

8. We have perused those judgements. Those judgements were no doubt issued after the judgement of the Hon'ble Supreme Court in CC No.734/97 i.e., after


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27-1-97. But the respondents failed to bring to the notice of the Bench in regard to the Hon'ble Supreme Court judgement referred to above when those OA and the Writ Petition were disposed of by the Tribunal and the Hon'ble High Court of AP respectively. Hence, the above judicial forum passed the order as the Hon'ble Supreme Court orders were not brought to their notice. Hence, reliance ^{on} of these judgements may not be ^{of} much help to the applicants in view of the Hon'ble Supreme Court judgement referred to above.

9. In that view of the matter the applicants cannot claim for grant of temporary status. Hence, the applicants are not entitled for the relief claimed by them in this OA. Accordingly, the OA is dismissed. No order as to costs.

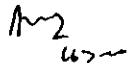

(B.S. JAI PARAMESHWAR)
MEMBER(JUDL.)

13.3.00


(R. RANGARAJAN)
MEMBER(ADMN.)

Dated: The 13th March, 2000.
(Dictated in the Open Court)

SPR



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,
HYDERABAD.

1ST AND 2ND COURT

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

COPY TO

1. HDHND

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

2. HRRN (ADMN) MEMBER.

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

3. HBSJP. M. (JUDL)

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

4. D.R. (ADMN)

5. SPARE

6. ADVOCATE

7. STANDING COUNSEL

DATE OF ORDER

13/3/00

MA/RA/CP.NO

IN

C.A. NO.

1211/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

200109

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण / DESPATCH 24 MAR 2000 हैदराबाद न्यायपीठ HYDERABAD BENCH
