

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH  
JAIPUR

Q.A.No.257/93

Dt. of order: 4.8.93

Man Singh & Ors. : Applicants

Vs.

Union of India & Ors. : Respondents

Mr.R.C.Gaur : Counsel for the applicants.

None present on behalf of the respondents.

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Hon'ble Mr.Justice D.L.Mehta, Vice Chairman


Hon'ble Mr.P.P.Srivastava, Member(Adn.).


PER HON'BLE MR.JUSTICE D.L.MEHTA, VICE CHAIRMAN.

The applicants submit that most of them have attained the temporary status during the period 1984 and 1986. They were working for <sup>a</sup> ~~the last~~ <sup>or so</sup> decade and the respondents are treating them as casual labour. A person who is working for a decade or so or for large number of years is generally not a casual labour. Apart from that one must understand the meaning of the word casual labour and temporary labour. Casual labour is a labour appointed against unanticipated work or unplanned work. When there is a work as a planned work which is likely to continue for years together like construction of a bridge, construction of a building, etc. then it cannot be said that the work is of a casual nature and the persons appointed for such work cannot be called as casual labours. There may be a fire, break down of a bridge or break down of a Railway Track etc. in such cases no planning is possible, so labour has to be engaged immediately looking to the unanticipated incidence and the labours so employed may fall within the purview of casual labour. A person who is appointed against a planned work may of a temporary nature, will be a temporary labour against a temporary work.

2. The applicants in this case worked for a period of 8 to 9 years and might have worked for more than a decade before getting temporary status, they cannot be said to be a casual labour at all and their position is that of a labour engaged on a temporary work, holding temporary status and thus they are regular temporary labours. The benefit of Article 16 of the Constitution may not be available to the persons who are casual labours but is available to the persons who are temporary labours. Casual labours cannot be transferred, only the temporary labours can be transferred. If the respondents treat the applicants as casual labour then they cannot be transferred. But looking to the facts the applicants have acquired temporary status and they are also working for 8 to 10 years with the respondents, they cannot be said to be casual labour particularly when they are working on a planned and anticipated work. In such circumstances, it is a case of transfer simplicitor of temporary workers <sup>and</sup> <sup>payment to</sup> is equated for the purpose of transfer, and such labours are entitled for all benefits of transfer including the advance payment. The respondents are at liberty to transfer the applicants after giving them all benefits of transfer. Mr. B.L. Meena, CLA, DRM, Jaipur, submits that the reply has been filed today in the Registry but the counsel for the respondents is not available.

3. We direct that if it is a case of transfer, all benefits which are available to the regular employees, shall be given to the applicants in the matter of transfer including transfer allowance etc. and the transfer order can only be maintained on this condition. The O.A. stands disposed of. Parties to bear their own costs.

  
(P. P. Srivastava)  
Member (A)

  
(D. L. Mehta)  
Vice Chairman.