

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 18.01.2001

OA No. 534/1994

Harunman Sahai S/c Shri Pennalal Ji, r/o Vill-Maorampur, PO& Teh-Sanganer, Distt. Jaipur, last employed on the post of Beldar Cum Peon in the office of Assistant Engineer (Civil) Civil Constructions Works, All India Radio, Jaipur

.. Applicant

Versus

1. Union of India through the Secretary to the Govt. of India, Ministry of Broadcasting, New Delhi.
2. The Executive Engineer (Civil), Civil Construction Works, All Indian Radio, Jhalana Doongari, Jaipur
3. The Assistant Engineer (Civil), Civil Construction Works, All India Radio, M.I.Road, Jaipur.

.. Respondents

Mr. Shiv Kumar, proxy counsel to Mr. J.K. Kaushik, counsel for the None present for the respondents

CORAM:

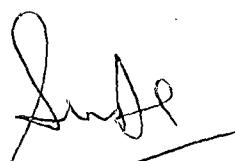
Hon'ble Mr. S.K. Agarwal, Judicial Member

Hon'ble Mr. A.P. Negi, Administrative Member

Order

Per Hon'ble Mr. S.K. Agarwal, Judicial Member

In this Original Application, filed under Section 19 of the Administrative Tribunals Act, 1985, applicant makes a prayer to direct the respondents to take the applicant on duty forthwith and to allow all consequential benefits or in the alternative, respondents may be directed to consider the case of the applicant for employment in the handicapped quota according to the suitability of the applicant.



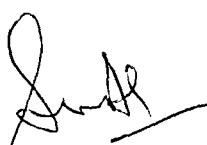
2. The case of the applicant, in nutshell, is that he was

engaged as Casual Labour on muster roll in the month of January, 1989 at Jaipur. Since then applicant has been continuously working as Beldar till 16.1.1993. On 17.1.1993 the applicant met with an accident and he was taken to S.M.S. Hospital, Jaipur. He was admitted and thereafter discharged on 29.1.1993. The applicant remained under treatment upto 17.2.1994 and was issued a certificate of disability for employment. The applicant submitted a joining report alongwith Disability Certificate on 21.2.1994 but the applicant was not taken on duty. Therefore, it is stated that action of the respondents is illegal, arbitrary and in violation of Article 14 of the Constitution of India.

3. Reply was filed. In the reply, it is stated that applicant was a Casual Labour and respondents used to avail his services on piece rate basis as and when there was availability of work with the respondents. It is also stated that applicant never worked as regular employee of the respondents. Therefore, the question of giving him any pay scale does not arise. It is also denied that applicant submitted any leave application or joining report as stated by the applicant and it is stated that applicant has no case for interference by this Tribunal. Therefore, this OA is devoid of merit and same is liable to be dismissed.

5. Heard the learned counsel for the applicant and also perused the whole record.

6. On the perusal of the averments made before us, it could not be established that applicant was a regular employee and was given scale of pay as applicable to a Class-IV employee. But on perusal of the averments made by the parties, it appears that applicant was purely a Casual Labour and he was performing the work on piece rate basis as and when there was availability of work with the

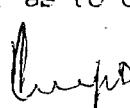


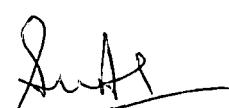
respondents. The applicant also failed to establish the fact that for how many days he worked in a particular year. The applicant also failed to establish that the applicant was ever conferred a temporary status. It is the settled law that Casual Labour has no right to a particular post. He is neither a temporary Government Servant nor a permanent Government servant. The protection available under Article 311 does not apply to him. His tenure is not only precarious, his continuance is dependent on the satisfaction of the employer. The temporary status conferred on him by the scheme only confers him those right which are spelt out in the scheme. A daily rated Casual Labour does not, ipso facto, get a right of continuance. His right of continuance is subject to availability of work and satisfactory performance and conduct. Such a Casual Labour can be utilised only as per the scheme framed by the Department. Merely long service as Casual Labour cannot make one a regular employee.

7. The learned counsel for the applicant also referred a Rajasthan High Court judgment in Shiv Day Singh v. State of Rajasthan and ors., 1993 (3) ATJ 114, by stating that termination of the applicant by oral orders was illegal, but in the facts and circumstances of this case, as mentioned above, this citation does not help the applicant, in any way.

8. In view of the facts and the settled legal position, we are of the considered opinion that the applicant is not entitled to any relief sought for.

9. We, therefore, dismiss this Original Application with no order as to costs.


(A.P.NAGRATH)
Adm. Member


(S.K.AGARWAL)
Judl. Member