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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of Order: 17.7.2000

OA 428/96 with MA 405/96

Gopal Lal Panwar s/o Shri Narayan Panwar aged 23 years by caste Pawar resident of 7045, Jawahar Nagar, Sector 'B', Jaipur.

....Applicant

Versus

1. Union of India through the Director, Ministry of Personnel, P.G. & Pension, Department of Personnel & Training, New Delhi.
2. The Chief Commissioner, Custom & Central Excise Department, Jaipur.
3. The Superintendent, Customs and Central Excise (Range Jhotwara), Jaipur.

....Respondents

Mrs. Naina Saraf, Counsel for the applicant.
Mr. Hemant Gupta, Proxy Counsel for
Mr. M.Rafiq, Counsel for the respondents.

CORAM

Hon'ble Mr. S.K. Agarwal, Member (Judicial)
Hon'ble Mr. S. Bapu, Member (Administrative)

ORDER

(PER HON'BLE MR. S. BAPU, MEMBER (ADMINISTRATIVE))

In this application, the applicant has prayed for the following reliefs:-

- "A. That the verbal order dated 22.7.1996 of respondent no. 3, terminating the services of the applicant from the post of Group 'D' employee, may kindly be quashed and the same may be declared null and void. The applicant may be allowed to continue to work on the post of Group 'D' employee.
- B. THAT by issuing an appropriate order or direction, the respondents be directed to regularise the services of the applicant on the post of Group 'D' employee with effect from the date on which he had completed 240 days of working with all consequential benefits. The respondents may further be directed to grant the regular pay scale of

...2/-

of Group 'D' employee to the applicant from the date on which he had completed 240 days of working.

- C. That the respondent may be directed to consider the candidature of the applicant for the post of Siphai.
- D. That any other relief which the Hon'ble Tribunal deems just and proper in the facts and circumstances of this case may also be granted to the applicant."

2. The applicant was engaged in the office of respondent no. 3 as Casual Labour on daily wage basis on 2.7.90. His services were dispensed with on 22.7.96. His initial pay was Rs. 10/- per day and later it was gradually increased to Rs. 30/- per day. It is stated by the applicant that he has passed VIII Std. He has registered his name with Employment Exchange. It is claimed that the applicant having worked from 2.7.90 to 22.7.96, respondents ought not to have disengaged him. Further as per Govt. of India Scheme contained in the O.M. dated 10.9.93 relating to grant of temporary status and regularisation of Casual workers, the applicant ought to have been granted temporary status and his services must have been regularised as per the said scheme.

3. Respondents have filed reply statement. In the reply statement, it is stated that applicant was never an employee of the respondents, that he was never given any appointment order in any capacity, he was engaged verbally to carry out sweeping work on a part-time basis for which he was paid at different rates during different periods and the applicant not having been appointed to any post, the application itself is not maintainable. It is further stated that just he was verbally engaged to carry out a sweeping work on a part-time basis, in the same manner the Department found that his services were no longer required, he was directed not to do the sweeping work w.e.f. 22.7.96. It is stated that there is no obligation to continuously to engage the applicant. It is stated that Casual Labour (Grant of temporary status and

and regularisation) Scheme, 1993 does not apply to the case of the applicant and it is applicable to only Casual Labourers ^{who were in service for one year as on 1.9.93}. It is further stated that the said Scheme is applicable only if the Casual Labourers have been engaged through a Employment Exchange.

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4. The applicant has filed rejoinder. In the rejoinder, he has stated that he was working on daily wage basis since 2.7.90 and for the same he was paid Rs. 30/- per day which was the minimum wages given to a daily wage employee. He has further stated he has also marked his presence in the Daily Attendance Register and he was not a part-time worker.

5. We have heard the learned counsel for the parties and also perused the records.

6. At the outset, we have to state that in the relief column of the application, the applicant ^{has} ~~wrongly described~~ ^{himself} as a Group 'D' employee. He has stated in the application that he was engaged only as a casual labour on a daily wage basis and his claim is that he was discharging all the duties as assigned to a regularly appointed Group 'D' employee. Further, there is no dispute about the fact that applicant was engaged from 2.7.90 and his services were dispensed with from 22.7.96. The next question is whether the applicant is entitled to the benefit of Govt. of India Scheme 1993 relating to grant of temporary status and regularisation of casual workers. *The Contentions of the Respondents regarding maintainability of the application is devoid of merit.*

7. The Scheme of Casual Labourer (Grant of temporary status and regularisation) of Govt. of India 1993 was brought out by Department of Personnel & Training and the Scheme came into force w.e.f. 1.9.93. Paragraph 3 of the Scheme states that Scheme was applicable to Casual labourers in the employment

of Ministries/Department of Govt. of India and their attached and subordinate offices, on the date of issue of these orders. The said Scheme was appended to a letter No. 51016/2/90-Estt.(C) of the Govt. of India, Ministry of Personnel, P.G. and Pensions, Department of Personnel & Training dated 10.9.93 which interalia stated that the "grant of temporary status to the casual employees who are presently employed who rendered one year of continuous service in Central Govt. Offices other than Department of Telecom, Posts and Railway may be regulated by the Scheme as appended." ~~to the Scheme.~~

8. There is no dispute about the fact that the applicant was being engaged by the respondents when the aforesaid Scheme came into force and further he also satisfies the condition of ^{been} having/engaged continuously for one year prior to that. In fact, the applicant was being engaged from July, 1990 onwards. We also find that at the time of initial engagement, the applicant was being paid Rs. 10/- per day which was gradually increased to Rs.15/ then to Rs. 20/- and then to Rs. 30/- as admitted by the respondent themselves in the reply statement. From this fact, it appears that he could not have been engaged ^{just} for one to three hours ^{only} a day as claimed by the respondents. We may mention here that prior to revision of pay scale w.e.f. 1.1.96 before the recommendation of the Vth Pay Commission report, the monthly pay of a regular Group 'D' staff in Administrative Department, was only Rs. 750/-. This belies the claim of the respondents that for engaging the applicant for one to three hours, he was being paid Rs. 10/- per day which was gradually increased to Rs. 30/- per day before he was disengaged in 1996. We hold that he was a full time casual labour.

9. In the light of the discussions in the proceedings paragraphs, we are satisfied that the applicant was entitled to the benefits of the 1993 ~~of the~~ Govt. of India Scheme. It is immaterial that the applicant was not initially appointed

through Employment Exchange. He was registered with a Employment Exchange. We direct the respondents to take him back as a casual labourer and consider ^{the} application of 1993 Scheme of Govt. of India for grant of temporary status and subject to further conditions and eligibility, consider him for regularisation in course of time. We may make it clear that he shall not be entitled to any wages/remuneration for the period for which he had not actually worked.

10. The applicant has also filed MA no. 405/96 stating that the respondent Department has called candidates for interview to be held from 29.8.96 to 31.8.96 for the post of Siphai and praying for a direction to the respondents to consider the applicant and allow him to appear in the said interview. There is no merit in this MA. The interview was for direct recruitment of candidates who were sponsored by the Employment Exchange. The applicant is not one of them. The MA is, therefore, dismissed.

11. The OA is ordered accordingly. No order as to costs.

(S. BAPU)
MEMBER (A)

(S.K. AGARWAL)
MEMBER (J)