

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Order: 7.2000

OA 429/96 with MA 404/96

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Hazarilal Tailor S/o Shri Rameshwar Prasad aged about 25 years resident of B-98, Kacchi Basti, Teela No. 7A, Jawahar Nagar, Jaipur.

.... Applicant.

Versus

1. Union of India through Secretary, Ministry of Finance, Department of Revenue, New Delhi.
2. The Chief Commissioner, Customs and Central Excise, New Central Revenue Building, Statue Circle, Jaipur.
3. The Superintendent, Customs & Central Excise Range III, V.K.I., Jaipur.

.... Respondents.

Mrs. Naina Saraf, Counsel for the applicant.

Mr. Hemant Gupta, Proxy counsel for

Mr. M. Rafiq, Counsel for the respondents.

OR RAM

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, 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 as 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 directions, 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 Group 'D' employee

to the applicant from the date on which he had completed 240 days of working.

- C That the respondents 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 13.6.94. 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 13.6.94 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 ^a 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 duties of Waterman 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 the duties of Waterman on a part-time basis and in the same manner, the Department found that his services were no longer required, he was directed not to do the duties of Waterman 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 Labourer (Grant of temporary status 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 from 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.

4. The applicant has filed a rejoinder. In the rejoinder, he has stated that he was working on daily wage basis since 13.6.94 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 that 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 labourer 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 13.6.94 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.

7. The Scheme of Casual Labourers (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 casual employees who are presently employed who rendered one year of continuous service in Central Govt. Office other than Department of Telecom, Posts and Railways ~~may~~ be regulated by the Scheme as appended to the Scheme.

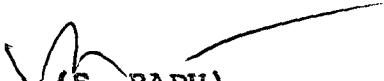
8. We find that applicant was not at all working as a casual worker with the respondents on the crucial date namely 1.9.93 and he has also not rendered one year continuous service prior to that date. He was engaged for the first time only on 13.6.94. Therefore, the 1993 Scheme did not apply to the applicant. The learned counsel for the applicant could not show us any other Scheme of the Government under which the applicant is entitled to be re-engaged and granted temporary status and further considered for regularisation. In the circumstances, application ~~is~~ is to be dismissed. However, we have to make it clear that this order shall not preclude the respondents from re-engaging the applicant as a casual labourer in future if need arises for the same and if the respondents actually want to engage someone and grant him benefit as applicable in the case of such re-engagement.

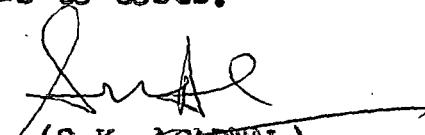
9. The applicant has also filed MA No. 404/96 stating that the respondent Department has called candidates for interview to be held from 29.8.96 to 31.8.96 for the post of Siphai and praying for a direction to the respondents to consider the applicant and allow him to appear in the said interview. There

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is no merit in this MA. The interview was for direct recruitment candidates who were sponsored by the Employment Exchange. This applicant is not one of them. The MA is, therefore, dismissed.

10. Subject to the observations in the preceding paragraphs both the OA and MA are dismissed. No order as to costs.


(S. BAPU)
MEMBER (A)


(S.K. AGARWAL)
MEMBER (J)