

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.116/97

Date of order: 3.8.1998

Smt.Tara Devi, W/o Shri Ramjilal, aged about 35 years, R/o H.No.240, Kotputli Basti, Jyoti Nagar, Jaipur.

Vs.

...Applicant

1. Union of India through Secretary to the Govt of India, Department of Posts, Ministry of Communication, New Delhi.
2. Chief Post Master General Rajasthan Circle, Jaipur.
3. Superintendent, Central Stamp Depot, Station Road, Jaipur.

...Respondents.

Mr.C.B.Sharma - Counsel for applicant.

Mr.M.Rafiq - Counsel for respondents.

CORAM:

Hon'ble Mr.Ratan Prakash, Judicial Member.

PER HON'BLE MR.RATAN PRAKASH, JUDICIAL MEMBER.

Applicant herein Smt.Tara Devi has approached this Tribunal under Sec.19 of the Administrative Tribunals Act, 1985 to seek a direction against the respondents to extend her the benefits of the scheme of the year 1991 and treat her as temporary status holder w.e.f. 29.11.89 or from the date of issue of this scheme alongwith arrears of pay, difference of wages after granting temporary status. She has also sought regularisation against the posts which are lying vacant with the respondents.

2. The facts which are not in dispute are that the applicant has been serving as a part-time Safai Karamchari w.e.f.10.9.81. Originally she was paid wages at the rate of Rs.344 ± D.A and thereafter these wages were revised to Rs.656 ± D.A per month w.e.f. 19.11.91 (Annx.A3).

3. It is the grievance of the applicant that though she has been performing 8 hours duty per day, neither she has been given temporary status nor she has been given the benefit under the scheme and regularise her on the post of Group-D staff in



the respondents' department.

4. The respondents have opposed this application by a written reply to which the applicant has also filed a rejoinder. It is the stand of the respondents that when the applicant was initially engaged as part-time Safaiwala from 10.9.81, her initial work load was 3 hours 30 minutes only and after revision as per norms fixed for daily work load, the monthly contingent allowance of the applicant was enhanced and the work load was revised to 7 hours w.e.f. 19.11.91. It is urged that consequent upon the scheme dated 12.4.91, only such casual workers who are engaged for full time working hours i.e. 8 hrs. are to be given regular Group-D minimum pay scale and since the applicant has been working only as a part-time worker for 7 hours, she is not entitled to claim the same benefit nor she can be conferred the temporary status as sought for.

5. In the rejoinder the applicant has also filed some calculations issued as at Annex.A6 to impress that the work load per day for the applicant comes to 8 hours and after reducing half-hour lunch period it comes to 7½ hours per day which has been calculated on the basis of the covered and uncovered area of the respondents' office.

6. I heard the learned counsel for the applicant as also the respondents and have examined the record.

7. From a perusal of the scheme dated 12.4.91 (Annex.A1), it is apparent that the benefit under the scheme is available only to those casual labours/workers who are in employment as on 29.11.89 and continued to be currently employed besides rendering continuous service of at least one year. Clause 2 of this scheme reads as under:

"2. Such casual workers engaged for full working hours viz 8 hours including $\frac{1}{2}$ hour's lunch time will be paid at daily rates on the basis of the minimum of the pay scales for a



regular Group-D official including DA, HRA & CCA".

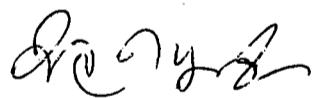
The scheme dated 12.4.91 does not lay down any guidelines to confer temporary status on part-time casual labours or contingent paid workers. It has been vehemently argued by the learned counsel for the applicant that since the respondents have themselves calculated the daily work load of the applicant as 8 hours as per the calculations issued as Annex.A6, the applicant has to be considered to have been a casual labour/ worker who has been serving the respondents' department by giving 8 hours work load per day and as such she has to be conferred temporary status w.e.f. 29.11.89. As against this argument, the learned counsel for the respondents states that the calculation sheet as at Annex.A6 does not disclose as to how it has come into existence and whether the calculations given therein are correct. In the reply also this stand has been taken that even if 7 hours 57 minutes are taken to be the work load per day for the area to be covered by the applicant during her service hours; after deducting $\frac{1}{2}$ hour for lunch, the work load remains less than 8 hours and the applicant can never be treated as a full time casual labour nor can be conferred the benefit under this scheme.

8. Though the learned counsel for the applicant has tried to impress that the applicant should be considered to have rendered daily service of 8 hours per day but the applicant ~~been~~ ^{been} has/ unable to show that at any given time she had/ treated as a full time casual labour. Even in the revision of wages order dated 17.12.91 (Annex.A3) she has been indicated as a part-time Sweeper of the respondents' department. It, therefore, cannot be said that the applicant has been working as a casual worker who has been working for full working hours i.e. 8 hours including $\frac{1}{2}$ hour lunch as envisaged in clause 2 in the scheme dated 12.4.91. In view of it, the applicant is not entitled for confirmation of temporary status from 29.11.89. The relief claimed in this regard is disallowed.

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9. Now, remains the question whether the applicant who has been serving with the respondents' department w.e.f. 10.9.81 as a part time casual labour or a contingent paid (worker) is entitled to confer the temporary status. This question was also raised before Hon'ble the Supreme Court in the case of Secretary, Ministry of Communications & Anr. Vs. Sakkubai, 1998 SCC (L&S) 119, wherein on a plea raised on behalf of such part time casual workers, Hon'ble the Supreme Court held that the scheme dated 12.4.91 is merely for the purpose of conferring temporary status on full time casual labours. Hon'ble the Supreme Court further observed that this scheme "does not take away the benefit of absorption conferred on part-time casual labours in terms of the letter dated 17.5.89". In view of these observations, it is expected that the respondents' department shall consider the case of the applicant sympathetically and shall consider her for confirmation of temporary status/regularisation in terms of letter dated 17.5.89 (Annex.A4) subject to however that the applicant fulfills the eligibility criteria.

10. The O.A stands disposed of as above with no order as to costs.



(Ratan Prakash)

Judicial Member.