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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA No. 288/97 & 289/97

Date of order: 05.01.1999

Birdichand Saini S/o Shri Jhawar Mal Saini aged about 36 years resident of Purana Bus Stand, Maliyon Ka Mohalla, Rani Sati Road, Jhunjhunu. Presently working as Pump Driver/Gardener, Postal Colony Jhunjhunu.

Devendra Kumar Saini S/o Shri Durga Dutt Saini, aged about 31 years, resident of Purohitji Ki Dhani, Radha Kishanpura, Anani Kothi, Ward No.25, Sikar. Presently working as Pump Driver and Waterman, office of Superintendent Post Offices, Postal Colony, Sikar

.. Applicants

Versus

1. The Union of India through the Secretary to the Govt. of India, Department of Posts, Ministry of Communication, New Delhi- 110 001.
2. Post Master General, Rajasthan Western Region, Jodhpur.
3. Superintendent of Post Offices, Sikar Postal Division, Sikar/ Superintendent of Post Offices, Jhunjhunu Postal Division, Jhunjhunu.

.. Respondents

Mr. C.B.Sharma, counsel for the applicants

Mr. K.N.Shrimal, counsel for the respondents

CORAM:

Hon'ble Mr. Ratan Prakash, Judicial Member

ORDER

Per Hon'ble Mr. Ratan Prakash, Judicial Member

Since in both these applications the facts and the question of law involved is the same, they are disposed of by a common order.

2. Facts in brief and relevant for disposal of these applications are that applicant Shri Birdichand Saini was initially appointed as Pump Driver by respondent No.3, Superintendent of Post Offices, Jhunjhunu on 24.12.1988 and applicant Shri Devendra Kumar Saini was appointed as Waterman in the office of respondents No.3 i.e. Superintendent of Post Offices, Sikar on 12.6.1988. It is not disputed that both these applicants have been continuously working with the respondent Department. The applicants are claiming in these applications their regularisation and conferment of temporary status in pursuance of the scheme entitled "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1991" which was circulated by the Director General, Posts, New Delhi vide its order dated 12.4.1991 on the basis of that they are working as full time workers with the respondent Department. The respondents in their reply have contested the allegations made by the applicants. It is urged that the applicants were never appointed as full time Casual Labourers but to work only for 3 or 4 hours per day.

3. I heard the learned counsel for the parties and have examined the record in great detail.

4. Though the applicants assert that they have been working with the respondent Department as full time Daily Wager, yet they failed to place any concrete evidence to support that they were ever appointed as full time Casual Labourers/Workers. Even the Scheme referred to above and called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1991" does not specifically provide for regularisation and conferment of temporary status on the category of individuals like the applicants here. As per the Scheme which is at Ann.A1, temporary status has to be conferred only on such Casual Labourers, who have been engaged for full working hours i.e. 8 hours including  $\frac{1}{2}$  hour lunch time and that it is not applicable in

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the case of part time Casual Labourers. The question of conferment of temporary status on part time Casual Labourers was also raised before Hon'ble the Supreme Court in the case of Secretary, Ministry of Communications and Ors vs. Sakkubai and Anr., 1998 SCC (L&S) 119, wherein it has been observed by Hon'ble the Supreme Court that the scheme dated 12.4.91 is mainly for the purpose of conferring temporary status on full time Casual Labourers. However, it has further been observed by Hon'ble the Supreme Court in the aforesaid judgment that this scheme does not take away the benefit of absorption conferred on part time Casual Labourers in terms of letter dated 17.5.1989. Accordingly, in the aforesaid case of Sakkubai the scheme of the part time Casual Labourers for conferment of temporary status upon them was disallowed. It was further observed by Hon'ble the Supreme Court in the aforesaid judgment that such part time Casual Labourers would be absorbed in accordance with the priorities set out in the letter dated 17.5.1989 provided they fulfil the eligibility criterion.

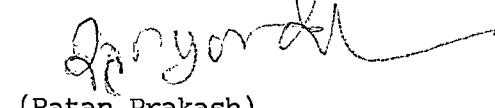
5. In view of the above position of law, the applicants herein being only part time Casual Labourers working as Pump Driver/ Waterman cannot be conferred temporary status as asked for by them in their applications in pursuance of the aforesaid scheme dated 12.4.1991. The relief, therefore, asked in this regard is disallowed.

6. However since the applicants have been continuously working with the respondent Department from the year 1988 as part time Casual Labourers/contingent paid workers, it is expected that the respondents shall consider the cases of the applicants for conferment of temporary status/regularisation of them in pursuance of the letter dated 17.5.1989 as at Annexure-A8/A7 in the respective OAs also keeping in mind the contents of letter dated 28.4.97 issued by the Govt. of India, Department of Posts and published in Swamy's News

July, 1997 at page 28, if the applicants otherwise fulfil the eligibility criterion laid down therein.

7. The OAs are disposed of as above with no order as to costs.

A copy of this order be placed in each of the OAs.



(Ratan Prakash)

Judicial Member