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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

G.A.No.298/97

Date of order: 3.8.1998

Kishan Lal Saini, S/o Shri Chandra Bhan Saini, aged about 31 years, P/o Hachchagarh Ward No.19, Sri Madhopur.

...Applicant

Vs.

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

...Respondents.

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

Mr.M.Rafiq - Counsel for respondents.

CORAM:

Hon'ble Mr.Fatan Erakash, Judicial Member.

PER HON'BLE MR.FATAN ERASH, JUDICIAL MEMBER.

Applicant herein Shri Kishan Lal Saini, has approached this Tribunal under Sec.19 of the Administrative Tribunals Act, 1985 to seek a direction against the respondents to extend him the benefits of the scheme dated 12.4.91 and to treat him as temporary status holder w.e.f. 29.11.99 with a further direction to pay him the arrears and difference of wages alongwith regularisation to the post lying vacant with the respondents.

2. The facts which are not in dispute in brief are that the applicant was initially appointed as a Gardner by the respondents and joined on 1.3.1988 and since then has been continuously working with the respondents' department. The applicant is at present getting wages at the rate of Rs.920/- per month including all allowances. The applicant approached the respondents many times to give him wages as per the work load as also for regularisation of his services but without success.

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3. It is the case of the applicant that though the respondents vide letter dated 6.1.95 have shown total number of duty hours as 8 hours per day, yet no action whatsoever has been taken by the respondents to increase the wages or to regularise the services of the applicant. Aggrieved, the applicant has approached this Tribunal to claim the aforesaid reliefs.

4. The respondents have opposed this application by filing a written reply to which no rejoinder has been filed. It is the stand of the respondents that the applicant has been working as contingent paid Gardner since 1.3.88. According to the respondents, as per the standard norms; work load for contingent paid Gardner is 4.35 hours. Subsequently, the applicant has also been entrusted the work of contingent paid Booster Pump Operator for operating Pump for filling water to the staff quarter's tank of the Postal Colony. As per the standard norms; work load of contingent Pump Driver comes to 1.31 hours and thus the total work load of the applicant i.e. for both the duties; comes to 5.66 hours. It is averred that as per the scheme dated 12.4.91, it is only the full time casual labours performing 8 hours duty including $\frac{1}{2}$ hour lunch are eligible to be conferred with the temporary status alongwith 3 years continuous service as full time casual labour; the applicant being a part-time labour cannot be conferred the temporary status as sought by him. The applicant is being paid wages for both the duties; which at present comes to Rs.573 + D.A. It has, therefore, been urged that since the applicant does not fulfill the criteria laid down under the scheme, he is not entitled to claim any relief as asked for in this application.

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

6. Though it has been emphasised by the learned counsel for

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the applicant that the applicant has been performing 8 hours duty per day and this fact is also affirmed by the letter dated 6.1.95 (Annx.A4) in response to a letter dated 6.1.95, yet there is no concrete document to support that the applicant was ever appointed as a full time casual labour. On the contrary, the respondents in para 4.4 of their reply have given out that the Post Master while issuing the letter Annx.A4 dated 6.1.95 submitted the work load without following justification of work and that when the same has been examined by the answering respondent No.3; as per the standard norms prescribed for this purpose, the work load comes to only 5.66 hours for both the duties. It, therefore cannot be said that merely on the basis of a letter issued by the Post-master the duty hours for the work load of the applicant would be taken as 8 hours per day; more so when the applicant has undisputably been working as a part-time Gardner with the respondents' department.

7. Moreover in the scheme dated 12.4.91 (Annx.A1), temporary status has to be conferred only on such casual labours who have been engaged for full working hours viz 8 hours including $\frac{1}{2}$ hr. lunch time and that this scheme is not applicable in the case of part-time casual labours. The question of conferment of temporary status on a part-time casual labour has also been raised in the case of Secretary, Ministry of Communications Vs. Sakkubai, 1998 SCC (L&S) 119 wherein it was observed by Hon'ble the Supreme Court that the scheme of 12.4.91 is merely for the purpose of conferring temporary status on full time casual labours. It was further observed by Hon'ble the Supreme Court that this scheme does not take away the benefit of absorption conferred on part-time casual labours in terms of letter dated 17.5.89. Therefore, the claim of the part-time casual labours for conferment of temporary status upon them was disallowed. It was observed by the Apex Court that such part time casual

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labours would be absorbed in accordance with the priorities set out in letter dated 17.5.89, provided they fulfill the eligibility criteria.

8. In view of the matter, the applicant herein being only a part time casual worker working as a Gardner cannot be conferred temporary status as asked for by him w.e.f. 29.11.89 in pursuance of the scheme dated 12.4.91. The relief asked for in this regard is disallowed.

C 9. However, since the applicant has been continuously working with the respondents' department since 1.3.1988 as a part time Casual labour/Gardner, it is expected that the respondents shall consider the case of the applicant for conferment of temporary status/regularisation of him in pursuance of the letter dated 17.5.89 (Annx.A7), if he otherwise fulfills the eligibility criteria laid down therein.

9. The O.A, is disposed of as above with no order as to costs.



(Ratan Prakash)

Judicial Member.