

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.530/1997

Date of order: 9.6.99

Anil Singh, S/o Shri Raghunath Singh, R/o Chatrabhuj Bhawan,  
Opposite GPO, Ajmer.

...Applicant

Vs.

1. The Union of India through the Secretary, Ministry of Communication, Department of Posts, New Delhi.
2. The Chief Post Master General, M.I.Road, Jaipur.
3. The Head Post Master, Ajmer.

...Respondents.

Mr.S.P.Mathur - 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 Shri Anil Singh has approached this Tribunal under Sec.19 of the Administrative Tribunals Act, 1985, seeking a direction against the respondents to declare as illegal and arbitrary his verbal termination order on 12.11.1997 and also to confer upon him the temporary status and regularisation under the Scheme of 1991.

2. The application has been contested by the respondents by filing a written reply to which the applicant has also filed a rejoinder.

3. The applicant's case in brief is that he initially joined his services on the vacant post of EDE (Packer) for a short period from 27.6.1989 to 21.10.1989 and thereafter he was reappointed on the aforesaid post on 8.11.1989 and after joining on 10.11.1989 he has been continuously working on this post till 12.11.1997 when his services were verbally terminated by respondent No.3. The applicant is claiming confirmation of temporary status and regularisation in pursuance of the Scheme of 1991 (Annex.A1).

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4. The stand of the respondents has been that the applicant was never appointed on the post of ED (Packer) under respondent No.3 on regular basis under the P&T Extra Deptt (Conduct & Service) Rules, 1964. On the other hand the applicant being an outsider was engaged as ED Packer, Ajmer Post Office as a substitute in leave vacancy offered by regular E.D Agent, Shri Jaswant Singh (his brother) on various dates during the year 1988 to 1997 purely on the risk and responsibility of the regular incumbent. It is denied that the applicant worked with the respondents continuously w.e.f. 10.11.89 to 12.11.1997. It has also been asserted that the Scheme of conferment of temporary status and regularisation issued by the respondent as at Annex. Al dated 12.4.1991 was meant to be applied only to the Casual Labourers in employment as on 29.11.89 who continued to be currently employed as such and have further rendered continuous service of at least one year. Since the applicant at the most was engaged as a substitute ED Packer by the regular incumbent, his brother, the Scheme of Conferment of temporary status and regularisation has no relevance in this matter and as such he is not entitled to regularisation and the O.A deserves rejection.

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

6. From a perusal of the documents filed by the applicant himself it is apparent that the applicant was engaged in a leave vacancy as substitute by a regular incumbent, his brother, Shri Jaswant Singh, from time to time. His appointment being governed by the EDA (Conduct & Service) Rules, 1964, he therefore cannot get any advantage of the aforesaid Scheme meant for and entitled as "Casual Labourers (Grant of Temporary Status & Regularisation) Scheme, 1991.

7. The learned counsel for the applicant has tried to rely on Cl.

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7 of the clarification issued by the respondent Government on 16.8.91 as at Annexure to the rejoinder; filed by the applicant which reads as under:

"7. In regard to inter-se-seniority between EDAs and casual labourers, it is stated that for Group 'D' posts EDAs have to be given first priority and only for the remaining posts casual labourers can be considered."

On the basis of this clause which deals with inter-se-seniority between EDAs and Casual labourers; the learned counsel for the applicant has tried to argue that the applicant is also governed by the said Scheme and accordingly he has to be conferred temporary status as sought for by him from a prospective date and that his services should be regularised accordingly.

8. I am afraid this argument of the learned counsel for the applicant is devoid of any force since the applicant has failed to make out that he was ever engaged as casual labour in the respondent department. As seen above, the applicant was engaged as an outsider substitute in a leave vacancy by a regular incumbent, his brother, who was working as an ED Agent and stood governed by the Posts & Telegraphs Extra Departmental Agent (Conduct & Service) Rules 1964. He, therefore cannot seek any benefit of the aforesaid Casual Labourers Grant of Temporary Status (Regulation) Scheme, 1991.

9. Consequently, there being no merit in the O.A which is dismissed with no order as to costs.



(Ratan Prakash)

Judicial Member.