

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.203/98

Date of order: 26/10/99

Ganeshi Lal Gupta, S/o Shri Madan Lal Agrawal, R/o Mohalla Ladia, near Court premises, Alwar, at present posted as Casual Labour in RMS-JP Dn, Alwar.

2. Ghanshyam Das Yadav, S/o Shri Ramdhan Yadav, R/o Mahandi Bag, near Karauli Kund, Alwar, at present working as Casual Labour in RMS-JP Dn, Alwar.

...Applicants.

Vs.

1. Union of India through Secretary to the Govt. of India Mini. of Post and Telegraphic Department, New Delhi.
2. Director General Post and Telegraph Department, New Delhi.
3. Sr.Superintendent, RMS, JP Dn, Jaipur.
4. S.R.O, RMS, JP Dn, Alwar.
5. Record Officer, Railway Mail Services, JP Dn, Jaipur.

...Respondents.

Mr.Rajesh Raj Kumawat - Counsel for applicants.

Mr.M.Rafiq - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application filed under Sec.19 of the Administrative Tribunals Act, 1985, the applicants make a prayer to direct the respondents to make them permanent in Group-D posts on regular basis with retrospective effect and to further direct the respondents to give all benefits to the applicants as are admissible to other regular and permanent Group-D employees.

2. In brief the facts of the case as stated by the applicants are that they were initially appointed as casual labour on 4.4.83 in the Department of Posts at Alwar, after being sponsored their names from the Employment Exchange. It is stated that the applicants are still continuing as casual labour. Their service record is quite clean and work and conduct is to the satisfaction of their superior authorities.. The applicants were conferred temporary status vide letter dated 2.12.91 and they are getting all the benefits admissible to temporary status casual labour but the respondents have not regularised to them so far. It is, therefore, requested that the applicants may be considered for regularisation with retrospective effect and to give all the benefits as admissible to regular and permanent Group-D employees.

3. Reply was filed. In the reply it was admitted that the applicants were conferred temporary status but conferment of temporary status does not automatically imply that the casual labourers would be appointed as a regular Group-D employee within the fixed period. The appointment to Group-D vacancies is always done when there is vacancy and as per the extent of recruitment rules. The applicants do not acquire any right to be treated as Group-D employees after 3 years of temporary status conferred upon them. Therefore, this O.A is devoid of any merit and liable to be dismissed.

4. Heard the learned counsel for the parties and perused the whole record.

5. It is settled law that casual labour has no right to the particular post. He is neither a temporary Govt servant nor a permanent Govt. servant. Protection available under Article 311 of the Constitution of India does not apply to the casual labour. His tenure is precarious. His continuance is depend on the satisfaction of the employer. A temporary status conferred upon him by the scheme only confers him those rights which are spelled out in the rules. Therefore, a daily rated casual labour does not ipso facto right of continuance. His right of continuance subject to availability of work and satisfactory performance and conduct. A casual labour can be regularised only after selection/screening as per the scheme framed by the Department. Merely long service as casual labour cannot make one a regular hand.


6. The applicants cannot claim any right to the post in case they are engaged on work charge daily basis. The question of regularisation of such workers is dependent on recruitment rules and government policy if any. Court cannot regularise de horse the rules or government policy as it has been held in State of of H.P Vs. Suresh Kumar Verma, 1996(2) SLR 321.

7. In view of above and the facts and circumstances of the case, I am of the considered view that the applicant cannot claim any regularisation de horse the rules. Therefore, no case for regularisation to Group D post is made out in favour of the applicants.

8. However the respondents in their reply has stated that the applicants are getting all the benefits admissible to them after conferment of temporary status to a casual labour and the applicants will be appointed as regular Group-D employees as per the relevant recruitment rules and as per para 7 of the Director General Posts, New Delhi's letter dated 12.4.91 and only then they would get the benefit as a regular/permanent Group-D employee.

9. In view of the submissions as mentioned above, I am of the view that no case for regularisation in favour of the applicants is made out at present. However, the respondents are directed to consider the case of the applicants for regularisation as per rules as and when their turn comes.

10. With these directions, this O.A is disposed of with no order as to costs.


(S.K. Agarwal)
Member (J).