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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 28.01.2000

OA No.39/99

Raghuveer Singh S/o Shri Sita Ram Saini lastly employed as Casual Labourer O/o Sub Circle Officer, Archaeological Department of India, Deeg, Bharatpur.

.. Applicant

Versus

1. Union of India through Secretary to the Government of India, Department of Archaeological, Ministry of Human Resources, New Delhi.
2. Superintendent, Archaeological Department of India, D-49, 'C' Scheme, Subhash Marg, Jaipur.
3. Sub Circle Officer, Archaeological Department of India, Deeg (Bharatpur.)

.. Respondents

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

Mr. S.S.Hasan, counsel for the respondents

CORAM:

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

Hon'ble Mr. N.P.Nawani, Administrative Member

ORDER

Per Hon'ble Mr. N.P.Nawani, Administrative Member

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant seeks quashing of the verbal order of termination of his services w.e.f. 17.4.1997 with all consequential benefits including wages and continuity of service etc. He further prays that respondents be directed to grant him temporary status w.e.f. 1.9.1993 with all consequential benefits as per Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularisation)

Scheme dated 10.9.1993 (for short the Scheme), a copy of which has been annexed at Ann.A1.

2. The facts of the case, as stated by the applicant, are that the applicant was initially engaged in January, 1991 by respondent No.3 as Casual Labour on daily wages basis to perform duties of Labour and Chowkidar/Mason; that the applicant had worked with respondent No.3 continuously from January, 1991 to 16.4.1997 with some technical breaks as per the details given in para 4(ii) of the Original Application and he was abruptly told not to come for work on 16.4.1997; that the applicant requested the authorities to pay regular pay and other benefits as per the Scheme but respondent No.3 instead of allowing benefits, dis-engaged the applicant w.e.f. 17.4.1997 without giving any prior notice and not allowing him to work thereafter; that the applicant requested the authorities to re-engage him and also served notice for demand of justice (Ann.A2) in the month of August, 1997 but the respondents took no action on his notice for demand of justice; that the respondents had not issued any written order for termination and, therefore, it is not possible for the applicant to file a copy of any order regarding termination of his services; that after dis-engagement the services of the applicant, the respondents continue to engage other persons and those junior to the applicant are being allowed to work which action of the respondents is in violation of Articles 14 and 16 of the Constitution of India; that the applicant is a poor person and his future seems to be uncertain even though he is entitled to the benefits of the Scheme including the conferment of the temporary status and the action of the respondents in not granting him the temporary status and instead terminating his services is contrary to the provisions of the Scheme.

3. The respondents have contested the averments made by the applicant and have stated in their reply that in the said Scheme it is clearly mentioned that the temporary status would be conferred on casual

labourers who are in employment on the date of issue of the OM dated 10.9.1993 and who have rendered continuous service of atleast one year, which means that they must have been engaged for a period of atleast 240 days (206 days in case of offices observing five days week). It has been contended on behalf of the respondents that the applicant was neither in employment on the date of issue of the said OM nor he ever completed one year service or 240 days service in any year and worked on daily wage labourer was taken from the applicant for different periods on different dates against sanctioned work estimate. They have mentioned a decision of the Ahmedabad Bench of the Tribunal in OA No.33/86 decided on 26.11.1986 in support of their contention but the same is not applicable as the Government of India has announced the scheme for grant of temporary status and regularisation of Casual Workers in pursuance of CAT Principal Bench New Delhi judgment dated 16.2.1990 and this scheme now holds the sway over the matter.

4. We have heard the learned counsel for the parties and also perused the material on record.

5. During the arguments, the learned counsel for the applicant gave us a copy of the order dated 10.8.1998 of this Bench of the Tribunal in OAs Nos. 37/97 and 38/97 and stated that the present case is fully covered by the said order. This was not controverted by the learned counsel for the respondents. We have perused the aforementioned order and find that after detailed examination, this Bench of the Tribunal has held that the oral dis-engagement of service, as implied in the said case, was wrongful termination and the applicants were entitled for consideration of their cases for conferment of temporary status ignoring the technical/artificial breaks in their engagements. The Tribunal had found substance in the averment of the applicants that their services were terminated verbally by the respondent Department otherwise they would have

informed to the applicants about their own absence and had also taken note of the fact that the respondents has not denied that the applicants had worked with them intermittently. In the present case also the respondent department has engaged the applicant intermittently on various periods and that there is some difference in the periods mentioned by the applicant and the respondents, does not change the position in any substantive manner. We, therefore, feel that the aforementioned order of this Bench of the Tribunal dated 10.8.1998 is squarely applicable in this case also and the applicant is entitled to be engaged as Casual Labour and also to be considered for temporary status.

6. In view of above position, we direct the respondents Nos. 2 and 3 to continue to engage the applicant as Casual Labour as was being done prior to 17.4.1997. Respondents Nos. 2 and 3 are also directed to consider conferment of temporary status on him by ignoring the technical/artificial breaks. This direction may be complied with as expeditiously as possible but not later than six months from the date of receipt of a copy of this orders. No order as to costs.

(N.P.NAWANI)
Adm. Member

(S.K.AGARWAL)
Judl.Member