

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 17.5.2001

OA No.425/2000

Manohar Lal Tak s/o Shri Buddhi Prakash Tak r/o Jamna Nagar, in front of D-38, Sodala, Jaipur

.. Applicant

Versus

1. Union of India through the Secretary, Prasar Bharti, Ministry of Information and Broadcasting, Govt. of India Sanchar Bhawan, New Delhi.
2. Director General, Prasar Bharti, Department of Akaswani, Sanchar Bhawan, New Delhi.
3. Station Director, Prasar Bharati, Broadcasting Corporation of India, All India Radio, M.I. Road, Jaipur

.. Respondents

Mr. Anurag Kulshrestha, counsel for the applicant

Mr. D.K.Swamy appeared as proxy counsel to Mr. Bhanwar Bagri, counsel for Government of India.

CORAM:

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

ORDER

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

The applicant has approached this Tribunal against the verbal termination of his services by respondent No.3 w.e.f. 1.8.1998 and prays for giving directions to respondents to reinstate the applicant back in service on the post of Helper and to regularise him accordingly.

2. The facts of the case, as stated by the applicant, are that applicant was initially engaged as Casual Labour (Helper in A.C. plant) after interview alongwith others in the year 1990 at the rate

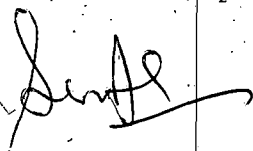
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of Rs. 22 per day and he worked upto 31.9.1997 continuously. Thereafter applicant was transferred to the Installation officer of F.M. Band and he continued there upto 1.8.98 but the services of the applicant were verbally terminated by respondent No.3 w.e.f. 1.8.98. No notice/show-cause was given to the applicant before terminating his services. Therefore, applicant filed this OA for the reliefs as above.

3. Reply was filed. In the reply it is stated that applicant was engaged to work on daily wage basis/contract basis at the rate of Rs. 22 per day in the year 1990 and this was increased to Rs. 35 per day in the year 1995. It is also stated that Rs. 1475/- was a consolidated amount of three different work jobs given to the applicant on contract basis. Thus, it is stated that applicant's appointment was on substantive basis or on substantive capacity is misconceived and misleading. Applicant was neither appointed nor his services were terminated and the OA is filed on the basis of imaginary facts. It is also stated that Mr. Shankhari was never appointed by the answering respondents to any post. Therefore, plea of discrimination is baseless and applicant has failed to establish any case in his favour for regularisation, and this OA is devoid of any merit and is liable to be dismissed.

4. Admittedly, the applicant was engaged as Casual Labour. No temporary status was ever conferred on the applicant. The Applicant could not produce any order of appointment and any order of termination. The respondents have categorically stated in the reply that applicant was never appointed as Helper against any substantive post. Therefore, the question of his termination does not arise.

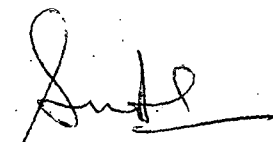
5. It is settled law that casual labourer has no right to the particular post. He is neither a temporary Government servant nor



a permanent Government servant. The protection available under Article 311 does not apply to him. His tenure is precarious. His continuance is depend on availability of work and satisfaction of the employer. Temporary status conferred on him by the scheme only confers him those right which are spelt out in clause 5 of Casual Workers (Grant of Temporary Status and Regularisation) Scheme, 1993. Therefore, a daily rated casual labourer does not ipso-facto gets a right of continuance but the right of continuance of such a casual labourer is subject to availability of work, satisfactory performance and conduct.

6. This is also a settled principle of law that regularisation of a casual labour could only be done if there is a post and no regularisation can be done de hors the rules. In the instant case, the applicant was merely engaged as casual labourer. No temporary status was ever conferred upon the applicant. He was not appointed against a substantive post. Therefore, applicant has no case for regularisation and this OA is devoid of any merit and is liable to be dismissed.

7. This OA is dismissed having no merits with no order as to costs.



(S.K.AGARWAL)

Judl.Member