

CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH: JAIPUR

ORIGINAL APPLICATION NO.: 289/2003

Date of order: 06.04.2004

Mukesh Chand son of Shri Krishna Murari, aged about 29 years, resident of House No. 1076/19 Jalim Mali Ka Bara, Nagra Ajmer. Last employed as Casual Labour in the office of Regional Controller of Mines, Ajmer.

...Applicant

V E R S U S

(1) Union of India, through its Secretary to the Govt. of India, Ministry of Mines, Shastri Nagar, New Delhi.

(2) Controller, Indian Bureau of Mines, Civil Lines, Indira Bhawan, Nagpur (Maharashtra).

(3) Regional Controller of Mines, Indian Bureau of Mines, Makhupura Industrial Area, Ajmer.

...Respondents

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

Mr. Manu Bhargava, counsel for the respondents.

CORAM:

HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER.

HON'BLE MR. M.K. MISRA, ADMINISTRATIVE MEMBER

ORDER (oral)

Shri Mukesh Chand has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 with a prayer that the respondents may be directed to allow the applicant to work as Casual Labour and after granting temporary status his services be regularised with all consequential benefits by quashing letter dated 17.03.2003 (Annexure A/1).

2. The Original Application was listed for admission today. With the consent of the learned counsel for the parties, the case was taken up for final disposal at admission stage. We have carefully perused the records and also pleadings of this case.

3. Skipping up the necessary details, the indubitable facts relevant for resolving the controversy involved herein, are that the applicant was engaged as Casual worker in the month of November 1992 in the office of respondent No. 3. He, in the first, instant continued to work upto



November 1993. Subsequently, he was re-engaged in May 1998 and worked in June 1998, October 1999 and upto October 2000 as a daily paid worker. He was assigned various jobs meant for Group 'D' employees. At one occasion, his case was taken up for regular appointment against Group 'D' post but the selection could not be completed due to administrative reasons and those posts have not so far been filled in.

4. As regards the variances, it is averred that as per the scheme known as "Casual Labour (Grant of Temporary status and regularisation) Scheme of Government of India, 1993 (for brevity, Scheme)." The Scheme was issued on 10.09.1993. It has been averred in the pleadings of the applicant that the applicant has completed more than 240 days in a year and he has become entitled for grant of temporary status but his request has been turned down without any cogent reasons.

5. From the side of the respondents, the averments made in the reply has been reiterated. It has been averred that the applicant did not complete the requisite number of days of working and he is not eligible for grant the benefit under the aforesaid Scheme of 10.09.1993.

6. The learned counsel for the applicant has reiterated the facts and grounds raised in the pleadings and has submitted that the respondents have not added Sundays and Holidays and had they added these days the applicant must completed 240 days in the very first year of an employment and therefore he is entitled for grant of the temporary status and consequent regularisation on the Group 'D' post which are admittedly vacant in the respondents department. He has also submitted that even the respondents resorted to filling up the said posts but for the reasons best known to them the same have not been filled in. He has also submitted that the applicant has been working for a long period but he still remains under sword of damocles in as much as it is uncertain as to whether the respondents would continue him even as a Casual Labour.



7. Per contra, the learned counsel for the respondents has contended that since the applicant has not completed the requisite number of days i.e. 206 days in a year as per very Scheme being relied upon by him, he is not entitled for any benefit under the said Scheme. He is not entitled even to grant of temporary status least to say about regularisation, therefore, the applicant has not been able to make out any case for interference by this Bench of the Tribunal.

8. We have considered the rival contentions and submissions made on behalf of both the parties.

9. We find that as per the respondents, the applicant has completed 134 days in the first year. Even if we allow the margine which may be available to the applicant by adding sundays i.e. 52 days, the total working of the applicant would come only 186 days and even if the National Holidays are also added still the total is less than 206 days, which is the minimum requirement for grant of the temporary status. As regards the Scheme dated 10.09.1993 for grant of temporary status there are two conditions which are mandatory for grant of the temporary status. The extract of the same is reproduced as under: -

"4. Temporary Status

Temporary status would be conferred on all casual labourer who are in employment on the date of issue of this O.M. and who have rendered a continuous service of atleast one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week)."

The aforesaid conditions must be fulfilled on the date when the Scheme came into effect i.e. on 01.09.1993. We find that the applicant has not fulfilled the aforesaid condition and therefore he is not entitled to get the benefit of the said Scheme.

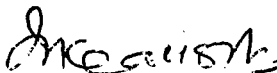
10. We may further clarify the matter that for the other period even

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though he might have completed more than 206 days or 240 days working still he cannot get the benefit under the aforesaid Scheme since this Scheme is a one time measure and this proposition of law has been held by the Supreme Court in Lt. Governor (Admn.) and Ors. vs. Sadanand reported in AIR 2002 SC 2001. In this view of the matter, the Original Application fails on all counts and we do not find that there is any impropriety or illegality in the action of the respondents in refusing the benefits under the said Scheme.

11. The result is rather very unfortunate but we are left with ~~the~~ no option except to dismiss this Original Application and we do so accordingly. However, there shall be no order as to costs.

  
( M.K. Misra )  
Administrative Member

  
( J.K. Kaushik )  
Judicial Member

Kumawat