

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

DATE OF ORDER: 31.08.2004

ORIGINAL APPLICATION NO. 556/2003

Pooran Mal Saini son of Shri Girdhari Lal Saini aged about 28 years, resident of Village and Post Jaisinghpura Khore, Dhani Tilangarh District Jaipur. Last employed as Casual Labour in the Office of Assistant Commissioner Customs, Foreign Post Office, GPO Building, Jaipur.

....Applicant

VERSUS

1. Union of India, through its Secretary to the Government of India, Department of Revenue, Ministry of Finance, New Delhi.
2. Commissioner, Custom, Custom Commissioneate, New Central Revenue Building, Statue Circle, Jaipur.
3. Assistant Commissioner Customs, Foreign Post Office, GPO Building, Jaipur.

....Respondents.

Mr. C.B. Sharma, Counsel for the applicant.
Mr. Vijay Singh, Proxy counsel for Mr. Bhanwar Bagri, Counsel for the respondents.

CORAM:

Hon'ble Mr. M.L. Chauhan, Member (Judicial)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- (i) That the entire record relating to the case be called for and after perusing the same, respondents may be directed to allow the applicant to work as Casual labour and after granting temporary status his service be regularized with all consequential benefits by quashing verbale dis-engagement.
- (ii) Any other order, direction or relief

may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.

(iii) That the cost of this application may be awarded.

2. The facts of the case are that the applicant was initially engaged as a part-time worker for two to three hours for doing the job to clean the office of Assistant Commissioner, Customs, Foreign Post office, Jaipur. However, his services were terminated w.e.f. September, 2003. The grievance of the applicant in this OA is that although he has been engaged as part time worker but the Department is extracting the work from him for eight hours, as such, it cannot be said that he is a part time worker. On that basis, the applicant has submitted that he is entitled for the grant of temporary status in terms Casual Labourer (grant of temporary status and regularisation) Scheme of Government of India 1993 and also for regularisation of his services. The second grievance of the applicant is that his verbal disengagement may be quashed and he be re-engaged as person junior to him is already working as Casual Labour.

3. The notice of this application was given to the respondents. The respondents have categorically stated that the applicant was only a part time workers and not a full time worker. Therefore, he was not entitled for temporary status and for regularisation of his services in terms of Government of India's Circular dated 10.9.1993 and 12.7.1994. It is further stated in the reply that the applicant has left the work at his own and he is absent since September, 2003. Therefore, he was discontinued and no show cause notice was necessary. Regarding the fact that junior persons to the applicant are still working with the Department, it is stated that since the applicant has left the work at his own whereas S/Shri Lalit

and Kailash are still working as Part time workers in the Department for two to three hours @ Rs.55/- per day. As such, the applicant cannot have any grievance for their retention as part time worker.

4. The applicant has filed rejoinder thereby reiterating that he has never left the work in September, 2003 and in fact he has been illegally discontinued.

5. I have heard the learned counsel for the parties and have gone through the material placed on record.

6. There cannot be any dispute regarding the fact that the Scheme called as Casual Labourer (Grant of temporary status and Regularisation) Scheme of Government of India 1993 is applicable to casual labourers who are in employment on the date of the issue of the O.M. and who have rendered continuous service of one year which means they must be engaged for 240 (206 days in the office of five days a week). Since the applicant was not engaged as Casual Labour but he was working as Part time worker for two to three hours, he is not entitled for the grant of temporary status in terms of the aforesaid Scheme and further for his regularisation in service. The Apex Court in the case of Secretary, Ministry of Communication & Others vs. Sakkubai & Another, 1998 SCC (L&S) 119 has held that the scheme for regularisation of casual labour as applicable to Central Government departments covers only full time and not part time casual workers.

7. So far as second grievance of the applicant that he has been disengaged since September, 2003 whereas his juniors have been retained, it may be stated that this Tribunal cannot give positive finding whether the services of the applicant was discontinued as the applicant remained absent or his services were terminated otherwise. (as the applicant has stated in the rejoinder that he

never remained absent or he has left the work by his own, as stated by the respondents in the reply, However, from the pleadings, it appears that the work is still available with the respondents and the persons junior to him are still working on part time basis.

8. In view of what has been stated above, I am of the view that it would be in the interest of justice if direction is given to the respondents to re-engage the applicant in the same capacity in case the work is available. It may also be relevant to mention here that the applicant was engaged by the respondents initially in April, 1998 and the applicant has worked with the Department for more than five years. As such, he has a preferential claim for his re-engagement in case the work is available with the respondents. Accordingly, the applicant is directed to submit a formal representation to the respondents for re-engaging him in the same capacity within a period of fifteen days from today and in that eventuality, the respondents are directed to pass appropriate order within a period of four weeks from the date of receipt of the representation.

9. With these observations, the OA is disposed of with no order as to costs.


(M.L. CHAUHAN)

MEMBER (J)

AHQ