

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

Original Application No. 664 of 2003

At Jabalpur this the 17th day of August, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. A.K. Bhatnagar, Member (J)

Hiramani Patel, S/o Shri Vasudha Patel, aged about 31 years, R/o H.No.580, Bengali Colony, Panchsheel Nagar, Bhopal (M.P.)

Applicant

By Advocate Shri Deepak Awasthi

Versus

1. The Union of India, through the Secretary, Ministry of Environment & Forest, Paryavaran Bhawan, C.G.O. Complex, Lodi Road, New Delhi.
2. The Director, Ministry of Environment & Forest, Paryavaran Bhawan, C.G.O. Complex, Lodi Road, New Delhi.
3. The Chief Conservator of Forests, Regional Office, West Zone, E-3/240, Arera Colony, Bhopal (M.P.)

Respondents

By Advocate Shri B.P. Singh

O R D E R (Oral)

By Hon'ble Mr. M.P. Singh, Vice Chairman

By filing this O.A. applicant has prayed for following reliefs:-

- (i) To direct the non-applicants to produce all the service records including the Muster Roll from April 1997 upto May, 2003, for kind perusal of this Hon'ble Tribunal.
- (ii) The non applicants may kindly be directed to reinstate the applicant with back wages;

(iii) Any other relief which this Hon'ble Tribunal may deem fit & proper, looking to the facts & circumstances of this case, be awarded.

(iv) Cost of this application be also awarded."

2. The brief facts of the case are that the applicant has worked with the respondents as a Daily Wager from 27.04.1997 to 01.05.2003 with certain breaks and he has been performing the duties of Peon in the Office of respondent no.3. The respondents have now discontinued the services of the applicant on 01.05.2003. Aggrieved by this, applicant has filed this O.A. and claimed the aforesaid reliefs.

3. The respondents in their reply have stated that the applicant was engaged as a casual labour on daily wages. He is neither a temporary employee within the meaning of Central Civil Service(Temporary Service) Rules nor the Temporary Status casual labour covered by "Casual Labours (Grant of Temporary Status and Regulation) Scheme of 1993 of Government of India. This scheme was a one time scheme of Government of India for confinement of temporary status to those of the casual labour who were on the employment of Government as on 01.09.1993, and who have rendered minimum of 240 days(206 days in case of offices observing five days in a week) and this scheme is not applicable in the case of the applicant. In view of this, no formal notice of discontinuation of the applicant, was needed. It is further submitted by the respondents that engagement of the applicant was purely on a need basis and not through Employment Exchange. The applicant is, therefore, not entitled for regularisation in terms of O.M. No.49014/1/98-Estt.(C) dated 01.04.98 issued by D.O.P.T.

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4. Heard learned counsel for the parties and perused the pleadings.

5. Learned counsel for the respondents has stated that applicant has worked for the period from 1997 to 2003 as and when there was a work in the Office of respondent no.3 Since now there is no work in the Office of respondent no.3 his services have been discontinued w.e.f. 01.05.2003. The case of the applicant is also not covered under the Scheme, 1993, therefore, applicant cannot be considered for regular appointment. Moreover, there is no work available with the respondents to require the applicant to work. In view of this, respondents submitted that O.A. is without merit and is liable to be dismissed.

6. From the pleadings available on record, we find that the applicant has worked from 1997 to 2003 with artificial breaks granted by the respondents. His services were terminated on 01.05.03 due to non-availability of work for further period. It is settled legal position that this Tribunal cannot direct the respondents to create a post for engaging the applicant. However, in the facts and circumstances of the case, the O.A. is disposed of with a direction to the respondents to consider the applicant as and when there is availability of work in preference to the juniors and freshers. No order as to costs.

Member (J)

Vice Chairman

/M.M./