

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH.

O.A.NO.195 of 2005

August 9, 2005.

CORAM : HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN.

Ashok Kumar S/o Gajanand By cast Sharma, aged about 32 years, resident of Sikrai Village and Post Sikrai District Dausa (Rajasthan) presently working as Daily Wages Casual Labour in the office of Revenue Intelligence Regional Unit, Jaipur.

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Applicant

By : Mr.P.N.Jatti, Advocate.

Versus

1. Union of India through the Secretary to the Govt. of India, Ministry of Finance, New Delhi.
2. The Director General, Directorate of Revenue Intelligence, I.P. Bhawan, New Delhi.
3. The Dy. Director of Revenue Intelligence, Regional Unit 2, Raj Bhawan Road, Civil Lines, Jaipur.

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Respondents

By : Mr.T.P.Sharma, Advocate.

ORDER (ORAL)

KULDIP SINGH, VC

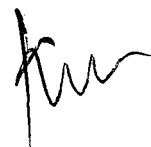
The applicant has filed this Original Application impugning the order dated 25.4.2005 (Annexure A-1) vide which the applicant has been directed to approach M/s Sharma Services, who have been appointed by the Department as the Service Provider/ Contractor for the purpose of engaging casual labours. The applicant has prayed for quashing the same and has sought a direction to the respondents that he should be engaged without going through the contractor.

This is second round of litigation. The applicant had earlier approached this Tribunal by filing O.A.No.545 of 2004 which was



decided on 16.3.2005. In that O.A the applicant had alleged that he was working as a casual labour and he had made a representation for regularisation of services but the said O.A was disposed of with direction to the respondents not to dispense with the services of the applicant against the work of the nature which he is performing. The respondents were further directed to extend him the benefit of Circular dated 6.6.2002, if the same was also applicable to the applicant since he was in service w.e.f. 1995 onwards. The applicant alleges that instead of regularizing his services he has been directed to contact M/s Sharma Services for being appointed on casual basis. Thus, it is submitted that these direction are against the order passed by this Tribunal since the applicant has been working on regular basis with the respondents against a vacant post and so he cannot be directed to approach a contractor for being appointed under the respondents.

The O.A has been contested by the respondents. They submit that since the letter dated 6.6.2002 does not apply to the applicant so he cannot be given benefit of the same . As per the letter dated 6.6.2002, only those employees who were in employment till 1993 were considered and since the applicant has been appointed subsequently i.e in the year 1995, so he cannot be engaged by the respondents directly. It is further submitted that another Circular dated 10.3.2004 has been issued which lays down that casual labourers are to be engaged only through Service Provider/Contractor, so direction given by the respondents through the impugned order are not arbitrary nor contrary to any rules or law and it is based on the policy decision taken by the Government of India. As such the present O.A is liable to be dismissed. It is further stated that the direction has



been issued to utilise the services of the applicant through service provider/contractor as per the letter dated 10.3.2004 and as such the impugned letter is quite justified and does not call for any interference.

The respondents have also annexed letter dated 6.6.2002 which provides that since the Scheme of 1.9.1993 was not an ongoing scheme and temporary status can be conferred only on those casual employees who are covered under the Scheme, so the applicant who was engaged after 1993 i.e in the year 1995, cannot be granted any benefit. He continues to remain as casual labour and since the Government has taken a policy decision to engage casual labourers through contractor, so the applicant cannot object to the same.

I have heard the learned counsel for the parties and gone through the record.

Indisputably, the applicant was not an employee of the respondents, even as a casual employee as on 1.1.1993 and thus he had not been conferred with temporary status. As far as regularization is concerned, he could have been regularized if sanctioned post for such regularization was available with the respondents but since the case of the applicant was for regularization which has already been dismissed in the earlier O.A of the applicant, now the only issue to be determined by this Bench is as to whether the applicant can be employed as casual employee directly in the department or not. Since the Government has abandoned the policy of engaging the casual employees directly and has switched over to new policy by which they are engaging casual employees through service provider (contractor) and the respondents have no objection if the applicant approaches the service provider for providing casual labourers, I do

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not find any reason as to why the impugned letter should be quashed since the applicant has not challenged the basic policy of the respondents nor the applicant has raised any objection regarding the same when he was earlier engaged by the department on contract basis. The respondents have placed on record letters dated 29.12.2003, 30.3.2003, 1.7.2004 and 30.9.2004 vide which the applicant has been engaged as casual labour on contract basis only. The respondents are still willing to engage him on contract basis. Thus, I do not find any fault with the impugned action or order passed by the respondents which has been issued on the basis of the new policy decision taken by the Government of India. If the applicant had any grievance against the said policy decision then he should have challenged the same but having failed to do so, he cannot get any relief. The O.A. is accordingly dismissed. However, we hope that the respondents will engage the applicant through contractor, if he is willing for such engagement and presents himself for being engaged by this process. No costs.


(KULDIP SINGH)
VICE CHAIRMAN

August 9, 2005.

HC*