

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

9

ORDERS OF THE BENCH

Date of Order: 07.12.2012

OA No. 256/2012 with MA No. 362/2012

Mr. C.B. Sharma, counsel for applicant.
Mr. Mukesh Agarwal, counsel for respondents.

At the request of learned counsel for the applicant, put up the matter on 12.12.2012. I.R. to continue till the next date.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat

12-12-2012

OA No. 256/2012 with MA No. 362/2012

Mr. C. B. Sharma, Counsel for applicant.
Mr. Mukesh Agarwal, Counsel for respondents.

Heard.

O.A. and M.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar
[Anil Kumar]
Member (A)

K. S. Rathore
[Justice K.S. Rathore]
Member (J)

Relaxation not
Allowed

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 12th day of December, 2012

Original Application No.256/2012

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Kishan Lal Saini
s/o Shri Chandra Bhan Saini,
r/o Village and Post Jaisinghpura
Dhani Bhim Srimadhapur,
Presently working as Gardener and
Pump Driver/Operator,
Shrimadhapur, Head Post Office,
Shrimadhapur (Sikar).

... Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India through Secretary to the Government of India, Department of Posts, Ministry of Communication and Information Technology, Dak Bhawan, New Delhi
2. Post Master General, Rajasthan Western Region, Jodhpur
3. Director, Postal Services, Rajasthan Western Region, Jodhpur

4. Superintendent of Post Offices, Sikar Postal Division, Sikar
5. Post Master Shrimadhapur, Head Posot Office, Shrimadhapur.

...
Respondents

(By Advocate : Shri Mukesh Agarwal)

ORDER (ORAL)

This is second round of litigation. Earlier, the applicant filed OA No. 206/2011 against the show-cause notice and the same was disposed of vide order dated 1.3.2012 with liberty to the applicant to represent before the respondents against the show-cause notice within 15 days positively from the date of passing of the order and if the applicant is able to file representation within 15 days, in that eventuality, the respondents were directed to consider the same and pass reasoned and speaking order in accordance with provisions of law within a period of 15 days thereafter. Till then, the interim order dated 24.5.2011 passed by this Tribunal was ordered to remain operative and immediately after decision on the representation, the interim order stands automatically vacated. The applicant was also given liberty to file substantive OA if any prejudicial order against his interest is passed by the respondents.



2. Pursuant to the direction issued by this Tribunal, vide order dated 29.3.2012 (Ann.A/1), the representation of the applicant has been decided by passing a speaking order. The case of the applicant was considered by the Director, Postal Services, Rajasthan Western Region, Jodhpur and after carefully examining the provisions of the scheme relating to conferring temporary status to full time casual labourers introduced by the department vide order dated 12.4.1991, it is noticed that this scheme was intended to give temporary status to only those casual labourers who were full time casual labourers as on 29.11.89 and who had rendered continuous service of at least one year by that time. It is not disputed that this scheme was subsequently extended to those casual labourers who had been recruited after 29.11.89 but before 2.9.93. In the light of the provisions of the above scheme, case of the applicant was considered and it was found that the applicant was not entitled for conferring temporary status, because as a matter of fact, he was not full time casual labourer at the relevant point of time i.e. prior to 2.9.93, which reveals from the report of the divisional head that duty of Pump Driver was assigned to the applicant only w.e.f. 31.8.2004 and after assigning this duty, his work load was (on taking the work of Gardener as well as Pump Driver together) equal to 5.30 hours. Earlier to this date, he was



performing only the job of Gardener and accordingly his work load was even less than 5.30 hours.

3. The learned counsel appearing for the applicant placed reliance on the judgment dated 13.5.2011 rendered by the Central Administrative Tribunal, Jodhpur Bench in OA No.271/2010 in the case of Heera Lal vs. Union of India and ors. which is based upon the judgment of the Full Bench of CAT-Hyderabad in OA No.912 and 916 of 1992 in the case of Smt.Sakkubai and Anr. Vs. The Secretary, Ministry of Communications, New Delhi and ors.

4. It is not disputed that the order passed by the CAT-Jodhpur Bench is challenged by the respondents and the Writ Petition is still pending consideration with the Division Bench of the High Court. Further, the respondents submitted that Hon'ble Supreme Court has set-aside the order passed by the CAT-Hyderabad Bench observing that temporary status would be conferred on casual labourers in employment as on 29.11.89 and who continued to be currently employed and have rendered continuous service of at least one year during the year. They must have been engaged for a period of 240 days. The scheme, therefore, actually covers only those casual workers who are



engaged full-time for 8 hours and the benefit under the scheme are conferred on those casual workers who are so covered and the view taken by the CAT-Hyderabad Bench was reversed by the Hon'ble Supreme Court. Therefore, the benefit claimed by the applicant in the light of Sakkubai (supra) cannot be extended in view of the Judgment of the Hon'ble Supreme Court in Secretary, Ministry of Communication and ors. vs. Sakkubai and Anr., reported in (1997) 11 SCC 224.

5. Further, the Hon'ble Supreme Court in the case of Union of India and Anr. Vs. Mohan Pal etc. in Appeal (Civil) 3168 of 2002 vide judgment dated 29.4.2002 held that the scheme was not on-going scheme and the temporary status can be conferred on the casual labourers under that scheme only on fulfilling the conditions incorporated in the scheme.

6. In view of the judgment rendered by the Hon'ble Supreme Court (cited supra), we find no illegality in the order impugned Ann.A/1 which has been passed pursuant to the direction issued by this Tribunal in OA No.206/2011 vide order dated 1.3.2012. Therefore, we do not propose to interfere with the same. Consequently, the OA being bereft of merit fails and the same is hereby dismissed with no order as to costs.



7. The ex-parte interim stay granted on 25.4.2012 stands vacated and therefore, no order is required to be passed in MA No.362/2012 for vacation of stay order, which stands disposed of accordingly.

Anil Kumar

(ANIL KUMAR)
Admv. Member

K. S. Rathore

(JUSTICE K.S.RATHORE)
Judl. Member

R/