

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI :: 5.

ORIGINAL APPLICATION NO. 206/94 199

MISE.PETITION/CONTEMPT PETITION/REVIEW APPLICATION NO. _____ (O.A. _____)

Sri H. Ch. Das

APPLICANT (S)

VERSUS

U.O.I & Ors.

RESPONDENT (S)

Mr M.K.Choudhury & Mr B.K.Baishya.

ADVOCATE FOR
APPLICANT (S)

Mr A.K.Choudhury, Addl.C.G.S.C.

ADVOCATE FOR
RESPONDENT (S)

OFFICE NOTE

DATE

COURT'S ORDER

This application is in
form and within time.

C. F. of Rs. 50/-

deposited vide

IPO BD No... 864519

Dated ... 27.11.94

[Signature]
31/10
[Signature]
nao

1.11.94

Mr M.K.Choudhury for the
applicant. Heard for admission. Mr
A.K.Choudhury, Addl.C.G.S.C receives
copy notice for the respondents.
By consent taken up for final
hearing.

The applicant has been working
as Work charged Khalasi since the
year 1981. His appointment has
been in a Work charged post and
purely temporary liable to be
terminated without assigning any
reason. The appointment did not
confer any right on the applicant
to be regularised. The applicant
continued to work with breaks given
from time to time. He worked for
298 days in 1989, 305 days in 1990
and 338 days in 1991. He claims
that by reason of his having worked
totally for more than 240 days he
is entitled to ^{be} conferred with
temporary status and regularised.
It is pointed out by the applicant
that after the last order dated

[Signature]

contd...

OFFICE NOTE

DATE

COURT'S ORDER

1.11.94 4.5.94 the appointment of the applicant has come to an end on 15.10.94 and has not been continued. He therefore prays that respondents may be directed to regularise his service giving him the benefit of regularisation from the date of his initial appointment on Work charged basis with all consequential benefits.

Reliance is also placed upon the O.M.No.49014/4/90-Estt.(C) issued by the Ministry of Personnel, Government of India dated 8th April, 1991 and O.M.No.51016/2/90-Estt(C) also issued by the Ministry of Personnel, Government of India dated 10.9.93. The applicant's name appears to have been included in the seniority list of Seasonal Khalasis in the year 1992.

The applicant states that he filed a representation to the Executive Engineer, Central Water Commission on 7.7.94 praying for regularisation but there has been no response from the respondents.

We share the anxiety of the learned counsel for the applicant that a poor person like the applicant who was working as Khalasi and has put in considerable length of service should be deprived of his employment rendering him jobless merely because he was continued on adhoc basis although he should have been regularised much earlier on completion of 240 days as per the existing norms. That however does not enable us to grant the relief in terms as it is prayed

hll

contd...

3
1.11.94

in view of the fact that the ^{practice} ~~post~~ of adhoc appointment has been disapproved by the Supreme Court and the law is laid down in clear terms in the ruling in J & K Public Service Commission etc. v. Dr Narinder Mohan & Ors. etc.etc. 1994(1) S.L.J page 209. The decision in the case of Dr A.K.Jain v. Union of India as well as in State of Haryana v. Piara Singh ~~was~~ were considered alongwith several other decisions. It has been observed that adhoc employee should be replaced as expeditiously as possible by direct recruits. Assuming therefore, that the post still exists although the department where the applicant was appointed was Work charged department still no legal right can be spelt out to be regularised as a matter of course. We are however, persuaded to take the view that the case of the applicant is fit to be considered sympathetically having regard to the spirit and object behind the O.M.dated 10.9.93 (read with O.M. dated 8.4.91 referred above) which lays down the procedure for filling up of Group D posts. The scheme has been formulated in connection with grant of temporary status and regularisation of the casual employees in pursuance of a judgment of the Principal Bench of the Central Administrative Tribunal. Since the applicant appears to have become entitled to be granted temporary status it would be just and proper to treat him similarly if that could be done even though the scheme may not directly cover him because he is not a casual daily rated worker but a temporary employee.

well
contd...

1.11.94

In the result, the respondents are directed to consider the case of the applicant sympathetically in the light of what is stated above. We hope that since the earlier engagement of the applicant has come to an end recently the respondents will consider the matter most expeditiously on receiving the copy of this order.

With the above direction, the application is disposed of. There will be no order as to costs.

14.12.94

Copy of order dtd.
1.11.94 issued to all
concerned by Regd.
Post vide D/No.
5058-62 Dtd. 15.12.94,

[Signature]

[Signature]
Vice-Chairman

[Signature]
Member