

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A. No. 217 of 1994

Date of decision 2.5.1997

Mrs. Tripti Das

PETITIONER(S)

Mr. B.K.Sharma, Mr. B.Mehta,
Mr. S.Sarma.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. G.Sarma, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE-CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, MEMBER (ADMINISTRATIVE).

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

Judgement delivered by Hon'ble Vice-Chairman.



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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 217 of 1994

Date of decision : This the 2nd day of May 1997.

Hon'ble Justice Shri D.N.Baruah, Vice-Chairman.

Hon'ble Shri G.L.Sanglyine, Member(Administrative).

Mrs. Tripti Das,
W/o Sri Sudip Kumar Das,
Resident of Udalbakra, Rodalipath,
P.O.-Udalbakra,
P.S. Dispur,
Dist. Kamrup

....Applicant

By Advocate Mr. S.Sarma.

-versus-

1. Union of India
Through the Secretary to the Govt. of India,
Telecom Department,
New Delhi.
2. The District Telecom Manager,
Guwahati.
3. The S.D.O. Phone(East)
Guwahati

....Respondents

By Advocate Mr. G.Sarma, Addl. C.G.S.C.

O R D E R

BARUAH J. (V.C.)

The applicant was verbally engaged casual worker in the office of the Sub-Divisional Officer (Phone) on 1.2.1991 and she had been doing miscellaneous works continuously. She was paid her daily wages at the rate of Rs. 47/- per day as prescribed for daily rated Mazdoor. Though she worked for the period from 1.2.1991 to 21.6.93, she was paid only upto 31.5.93. Annexures A,B, and C are letters issued to the Senior Medical
....Dispensary

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Dispensary by the Assistant Engineer Cables and Sub-Divisional Officer. These letters would go to show that she had been working as casual labour. Her engagement was terminated verbally on 31.5.1994. The applicant, therefore approached the authority, praying interalia for her reinstatement. However, this was denied. Hence the present application.

2. The respondents have entered appearance in due course and have filed written statement.

3. The contention of the applicant is that she was engaged casual labour on 1.2.1991 and she had worked more than 240 days. According to the applicant, she is entitled to get temporary status and also thereafter regularisation. The respondents however, refute the claim of the applicant.

4. We have heard Mr. S.Sarma, learned counsel appearing on behalf of the applicant and Mr. G.Sarma, learned Addl. C.G.S.C. for the respondents. Mr. S.Sarma submits that the Central Government has prepared a scheme know as "Casual Labourers (Grant of Temporary Status and Regularisation) scheme of the department of telecommunications, 1989". This scheme was prepared by the Government to give certain benefits to the casual workers. It was a welfare scheme and all the casual labourers coming within the purview of this scheme, have legitimate expectation to receive benefits given by the said
.....scheme

scheme. The applicant has stated that she comes within the scope of the said scheme. Mr. S.Sarma further submits that the applicant has fulfilled all the conditions necessary for getting the benefit of the scheme. However, the authorities most unreasonably have denied the said benefit to the applicant. The action of the authorities according to Mr. Sarma was arbitrary and unreasonable. Mr. G.Sarma, on the other hand refutes the submissions of Mr. S.Sarma. According to him, the applicant no doubt a casual labour but her service was no longer required and therefore she was not entitled to get temporary status and subsequent regularisation of her service.

5. On the rival contentions of the parties it is to be seen as to whether the applicant is entitled to get the benefit of the aforesaid scheme or not? The scheme was prepared in 1989. It came into force with effect from 1.10.1989. This scheme is applicable to the casual labourers of the department of Telecommunications. As per clause 5 of the said scheme, the temporary status of casual labourers may be conferred to those casual labour who continuously rendered service for one year, out of which they must have been engaged for 240 days (206 days in case of offices observing five days a week). Such casual labourers would be designated as Temporary Mazdoor. The conferment of the temporary status would be however without reference to the creation/availability of regular Group D posts. Conferment

....of

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of temporary status on a casual labourer would not involve any change of his duties and responsibilities. Mr. G.Sarma, however, submits that the applicant was engaged for specific periods depending on availability of work and the averments to that effect have been made in paragraph 3 of the written statement. We quote the paragraph 3 of the written statement :

"That with regard to the contents made in para 3, I beg to state that the applicant was engaged and paid for specific period depending on work availability. This practice was purely on daily rated basis, question of any appointment does not arise".

6. In paragraph 6 of the written statement it has been mentioned that the scheme was not applicable to the applicant. The terms of appointment have not been produced before us. It is not known on what basis such averments have been made. The written statement is silent as to why the scheme is not applicable to the applicant. Learned Addl. C.G.S.C. Sri G.Sarma also has not been able to show anything as to why the scheme is not applicable to the applicant. Records have also not been produced before us to ascertain the genuineness of the averments made in the written statement.

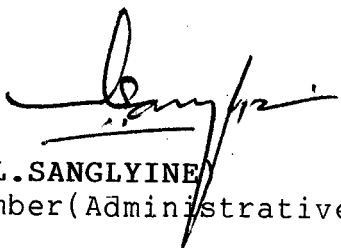
7. On perusal of the application and the written statement, we find that the applicant was appointed in the year 1991 and she worked more than 240 days and on the date of commencement of the scheme she was serving as per engagement. It may be mentioned


....here

here that the learned Addl. C.G.S.C. has not referred to any other document other than the scheme.

7. Considering all the aspects of the matter we have no hesitation to come to the conclusion that the applicant was a casual labour.

8. In view of the above, we dispose of the application with a direction to the respondents to consider the case of the applicant, if she fulfils the requirement as indicated above she shall be given temporary status and thereafter her services shall be regularised strictly in accordance with the scheme. These must be done as early as possible within a period of 3 months from the date of receipt of the copy of this order.


(G.L. SANGLYINE)
Member (Administrative)


(D.N. BARUAH)
Vice-Chairman

trd