

## **Central Administrative Tribunal Principal Bench, New Delhi**

**OA No.3404/2016**

**on'ble Ms. Praveen Mahajan, Member (A)**

**Reserved on : 11.10.2017.  
Pronounced on :31.10.2017**

Lalan Rai,  
Aged 53 years  
S/o Shri Sunder Dev Rai  
R/o C-33, Rajapur Nagli  
Kale Khan, Nizamuddin  
New Delhi  
Casual Labour, Group "D".

(By Advocate:Shri J.P.Shukla with Ms. Shipra Shukla)

## VERSUS

1. The Secretary  
Government of India  
Ministry of Personnel  
Public Grievances and Pensions  
Department of Personnel and Training  
North Block  
New Delhi.
2. The Secretary  
Staff Selection Commission  
CGO Complex, Block No.12  
Lodhi Road  
New Delhi – 110 003.

(By Advocate:Shri C.Bheemanna, Sr. Central Govt. Panel Counsel)

## ORDER

**Hon'ble Ms. Praveen Mahajan, Member (A):**

The present OA has been preferred by the applicant against the alleged discrimination adopted by the respondents in regularisation of services of casual workers in the Staff Selection Commission. The applicant has argued that he was appointed on daily wage basis with the respondents on 08.02.1990. He submits that he completed 240 days service in 1991 and became eligible for regularization of his services in 1991 itself, however, he has not been granted the temporary status till date.

2. The applicant alongwith others had moved the Central Administrative Tribunal (Principal Bench) New Delhi by way of OA No.2532/1999 for grant of temporary status and regularization of services. Since DOP&T was not made a party, the OA was dismissed as not maintainable on 18.05.2001 for non-joinder of necessary parties. On 15.11.2002, another OA No.405/2002 of the applicant seeking relief in terms of the DOPT's scheme dated 10.09.1993 w.e.f. 01.09.1993 was also dismissed by the Tribunal vide order dated 15.11.2002. On 03.07.2013, the Hon'ble Delhi High Court ordered the respondent no.2 to regularize the services of a casual worker w.e.f. the date persons junior to him were regularized. Finally, in Writ Petition No.(C) 10152/2015, C.M.No.25000 & 25002/2015, the Hon'ble High Court allowed the applicant to file a fresh application before the Central Administrative Tribunal. The OA No.2614/2016 filed before the Tribunal was disposed of on 08.09.2016 as withdrawn with liberty to the applicant to file a fresh O.A. incorporating the orders of the respondent about regularization of juniors of the Applicant. The applicant states that temporary status was to be conferred on all casual labourers who were in employment on the date of issue of the Office Memorandum dated 10.09.1993 of the DOPT and who had rendered a continuous service of at least one year, which means that they should have been engaged for a period of atleast 240 days (206 days in the case of the offices observing 5 days week). It is further submitted that the applicant became eligible for temporary status and regularisation in 1991 when he completed 240 days service in that year. However, he was not given the benefit because of the pick and choose policy of the respondents. It is further stated that there are many employees who were not in service of respondents on 10.09.1993 but they have been conferred temporary status and have got the benefits of regularisation.

3. In line with the judgment of **Inder Pal Yadav and Others Vs. Union of India and Others** (1985) 2 SCC 618 by the Apex Court, the applicant avers that it was laid down that the men with longest service should have priority over those who have joined later on. Hence, his non-regularization was unconstitutional and discriminatory.

4. In their counter, the respondents submit that as per 1993 Scheme of DOP&T, there are two eligibility conditions for grant of temporary status, namely, temporary status would be conferred on all casual labourers who are in employment on the date of issue of O.M. (51016/2/90-Estt (c) dated 10.09.1993) and on casual labourers who have rendered a continuous service of at least one year, which means at least 240 days (206 days in case of offices observing five days a week). It is stated that Shri Lalan Rai, the applicant in the current OA, fulfills one condition out of the two for grant of temporary status i.e. he had completed 206 days service in a year in 1991. However, since the petitioner was not in position as on 10.09.1993, he was not considered eligible for temporary status due to non-fulfillment of both the conditions as laid down in the Scheme. It is further stated that the scheme of 1993 was not an on-going scheme and the casual labourers who were in employment even before the launch of scheme but not fulfilling the required conditions of the scheme are not eligible for temporary status.

5. The respondents submit that the OA is also barred by *res judicata* in view of the OA No.2532/1999 & OA No.405/2002, which were filed before the Tribunal and had been dismissed. Even the WP (C) No.10152 of 2015 filed by him before the Hon'ble Delhi High Court of Delhi was dismissed on the ground of Delay and laches. The subsequent OA filed by him was also disposed of as withdrawn by the Tribunal with liberty to file a fresh OA. Since he has been re-agitating the issue over and over again, he cannot be allowed to do so. Finally, reliance has been placed on the judgment of

Hon'ble Supreme Court in Civil Appeals No.3168, 3182, 3179, 2176-78 and 3169 of 2002 arising out of SLPs (Civil) Nos.2224 of 2000, 13024, 1563 of 2001, 17174-76 and 2151 of 2000, where it has been held that "Scheme of 1993 is not an ongoing scheme and the "temporary" status can be conferred on the casual labourers under that Scheme only on fulfilling the conditions incorporated in clause 4 of the Scheme, namely they should have been casual labourers in employment as on the date of the commencement of the Scheme and they should have rendered continuous service of at least one year i.e. 240 days in a year of 206 days (in case of offices having 5 days a week)". Hon'ble Supreme Court categorically ruled that "We also make it clear that those who have already been given "temporary status on the assumption that it is an ongoing scheme shall not be stripped of the "temporary" status pursuant to our decision". The applicant as Casual Labourer does not fulfil the conditions for grant of temporary status because he was not in the position as on 10.09.1993.

6. Heard both the learned counsel and perused the written submissions filed by both the parties.

7. I am inclined to agree with the learned counsel for the respondents that the temporary status could only be conferred on Casual Labourers under the OM of DOPT on fulfilling the conditions incorporated in clause 4 of the Scheme i.e. they should have been casual labourers who were in employment on the date of commencement of scheme and rendered continuous service at least one year i.e. 240 days (206 days in case of offices observing five days a week).

8. In the case of the applicant, it is clear that he was not in employment on the date of commencement of the scheme, which was not an ongoing scheme. Hence, he does not fulfil the required conditions for grant of temporary status not being in position on 10.09.1993. Merely, because some

other juniors have been given temporary status does not mean that the applicant can insist upon grant of temporary status as extended to them. The judgments cited by the applicant are not applicable to the facts of the present case. The respondents are bound to follow the procedure laid down for grant of temporary status and regularisation, strictly.

9. In view of above, the claim of the applicant lacks merit and does not call for intervention. The OA is, therefore, dismissed. No costs.

**(Praveen Mahajan)  
Member (A)**

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