

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No. 20/674/2016

Date of CAV: 30.01.2019

Date of Pronouncement: 31.01.2019

Between:

M. Gowri Sankar Rao,
S/o. M. Chinna Jaggu Naidu,
Age 52 years, Occ: Unemployed,
R/o. NSTL, Type 5, G-3,
Arun Block, Visakhapatnam.

... Applicant

And

1. The Union of India, Rep. by its Secretary,
Ministry of Defence, South Block, New Delhi.
2. The Scientific Advisor to Raksha Mantri and
Director General Research and Development,
Ministry of Defence, DRDO Bhavan, Rajaji Marg,
New Delhi – 110 001.
3. The Director,
National Science and Technological Laboratory (V),
Gopalapatnam (PO), Visakhapatnam – 530 027.

... Respondents

Counsel for the Applicant ... Mrs. Anita Swain

Counsel for the Respondents ... Mrs. K. Rajitha, Sr. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar ... ***Member (Admn.)***

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. The applicant is aggrieved for not being granted temporary status as casual labourer though he is eligible as per DOPT OM dt 10.9.1993. Through the OA filed, he is seeking a direction to be given to the respondents to grant temporary status and regularise his services as casual labourer.

3. Applicant joined the respondents organisation as casual labourer on 18.9.1985. He has put in 30 years of service but was not regularised though he fulfils the norms laid down in DOPT memo dt 7.6.1988 which called for review of engagement of casual labourers and adjust them against regular posts to the extent, regular posts are justified. Respondents did not carry out the exercise as per the said memo. Thereafter, DOPT issued the Casual labourers (Grant of Temporary Status and Regularisation) Scheme of Govt of India vide memo dt 10.9.1993. As per the scheme the casual labourers who are in the employment of the G.O.I., as on the date of issue of the memo and who have put in 240 days (206 i.r.o of 5 day week offices) of continuous service will be conferred with temporary status. The applicant, since he was working from 1985 approached the respondents through representation dt 27.11.2015, to regularise his services or grant temporary status as per memos of 1988 and 1993 respectively. As there was no response applicant submitted the muster rolls from 1998 to 2000 as proof of his working for more than 240 days. Being irked for presenting such details he was not being engaged from Jan 2016, thereby starving him. Similarly situated employees consequent to the intervention of this Tribunal in different OAs, have been granted relief but the same was denied to him. Hence the OA.

4. The applicant's main plea is that as per the DOPT memos of 1988 and 1993 he is eligible to be regularised or given temporary status since he satisfies the norms laid therein. A certificate for the period from 1996 to 1998 issued by an officer of the respondents organization on 28.4.1998 and the muster rolls filed with the OA are ample proof that the applicant has been continuously working for the respondents from 1996 to 2000. Besides, this Tribunal in OA Nos. 1617/2013, 1660/2003, 34/2007, 264/2000 & 256/1999 has granted similar relief sought to casual labourers engaged by the respondents.

5. Respondents defend their stand by stating that they do engage daily wage workers purely for temporary works. The applicant worked under a contractor and not under the respondents. Therefore, DOPT memos cited are not applicable. The service certificate issued to the applicant was not from a competent authority. Moreover, the certificate states that he was engaged when required, whereas the applicant states that there was no break in service. Coming to the muster rolls produced from 1998 to 2000, this period is not covered by the 1993 memo. The orders of this Tribunal in OAs cited and that of the Honourable High Court are based on evidences available in the cited cases. The claim of the applicant pertains to 1985 which is more than 30 years old. As per rule records are to be retained only for 3 years. The claim of the applicant that he has been disengaged from 2016 is false since he has been engaged by a contractor and not by them. The respondents quoted the Honourable Supreme Court observation in Prabhakar vs. Joint Director, Sericulture Dept in SLP (C) No 27080/2015, wherein it was held that the request for old and time barred documents should not be called for considering belated claims.

6. Heard both the counsel. Smt. Anita Swain appeared on behalf of the applicant and Mr. Laxman Rao, learned counsel for Mrs. K. Rajitha, learned Sr. CGSC on behalf of the respondents. Perused the documents and other relevant material papers.

7(i) As is seen from the case details, the applicant claims that he did work for the respondents from 1985. He has produced muster rolls and a service certificate issued by an officer, which, according to the applicant, indicate that he worked for the respondents from 1996 to 2000. DOPT did issued Memos in 1988 to regularise casual labourers based on certain conditions. Again in 1993, one another memo was issued by DOPT to grant temporary status to casual

labourers, if they satisfy the condition of working continuously for 240 days in a year and if they are employed by G.O.I as on date of the Memo.

(ii) Against the above background the case has to be decided. The first and foremost parameter to be evaluated is as to whether who has engaged the applicant. The respondents have produced during the hearing letter dt 8.1.2019 of Fahul Erectors, a private contractor, which affirms that the applicant was engaged by them from 2006 to 2015. Respondents have also submitted casual pass register wherein details of passes issued to employees engaged by the contractors to work for the respondents are recorded. The learned counsel for the respondents has shown the Tribunal the dates on which passes were issued to the applicant on behalf of two contractors from the years 2007 onwards intermittently till 2016. The applicant produced the muster rolls for the period 1998 to 2000, which indicate the days for which he has worked and also the Account Head from which the payment has to be made and a service certificate. From the aforesaid documents, it is evident that the applicant was engaged by private contractors. The muster rolls do not specify that he was engaged by the respondents. Service certificate indicates that he was engaged intermittently and not continuously. Coming to the aspect of the application of the memos of 1988 and 1993 of DOPT, the applicant did not produce any document to show that he was engaged by the respondents as casual labourer. In the absence of such a vital document claiming regularisation or temporary status, it does not give any scope for this tribunal to examine the case on behalf of the applicant. More so, when the respondents producing clinching evidence that the applicant in the later years, worked for the respondents on behalf of labour contractors. Had he worked for the respondents, the applicant, who has produced muster rolls, could have easily produced an order engaging him as casual labourer by the

respondents. Not producing such a document confirms the assertion of the respondents. Besides, the claim of the applicant is stale since it pertains to 1985. More than 30 years have lapsed and the preservation of records is only for 3 years. Honourable Supreme Court's observation cited by the respondents does prohibit calling for records to examine stale claims. Entertaining such claims would unsettle settled issues, which is not in organisational interests. Thus as can be seen, the applicant could not submit any required evidence claiming that he was engaged by the respondents during the critical periods covered by the DOPT memos of 1988 and 1993. The OAs and the Honourable High Court order quoted by the applicant are not relevant since the material facts stated therein are different.

(iii) Therefore, there is no merit in the case to intervene on behalf of the applicant. Hence the OA is dismissed, with no order to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 31st day of January, 2019

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