

15

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1006/2003

New Delhi this the 14th day of May, 2004.

Hon'ble Shri Shanker Raju, Member(J)

1. Smt. Rameshwari
2. Smt. Kalidasee
3. Smt. Saraswati
4. Smt. Lachho
5. Smt. Swaranlata
6. Smt. Deepa
7. Smt. Meera Matel
8. Smt. Om Wati
9. Smt. Rajdua
10. Smt. Rattan Kaur
11. Smt. Hersha

(All ar working as House Aunti, under different Homes of social welfare department, Govt. of NCT of Delhi, under Respondent No.2).

(through Sh. Yogesh Sharma, Advocate)

Versus

1. NCT of Delhi through
the Chief Secretary,
New Sectt. New Delhi.
2. The Director,
Directorate of Social Welfare,
Govt. of NCT of Delhi,
K.G. Marg, New Delhi-1. Respondents

(through Ms. Renu George, Advocate)

O R D E R

Hon'ble Shri Shanker Raju, Member(J)

Applicants who are working as House Auntis
have sought grant of pay scale at the minimum rate paid
to a daily wager/casual labourer.

2. A brief factual matrix is relevant to be produced:-

One of the two applicants, namely, Smt. Maya & Smt. Anjali Pal have filed OA-1009/2000 seeking conferment of temporary status and regularisation.

3. By an order dated 20.2.2001 after discussing the rival contentions, the following observations have been made:-

"Thus both the applicants, I find have been working on full time basis and in the circumstances of this case it is possible to treat them as casual workers entitled for benefits in accordance with the DOP&T Scheme of September, 1993."

4. The aforesaid decision was complied with by the respondents vide order dated 9.5.2001 where the applicants have not been found entitled to be treated as casual labourer for grant of temporary status on the ground that they have not been initially engaged through Employment Exchange and on the ground that they are volunteers.

5. Contempt Petition No.389/2001 filed by applicants in OA-1009/2000 was disposed of on 9.8.2001 by holding that the House Aunts are not casual workers but volunteers is unsustainable as the issue has attained finality in the order passed on 20.2.2001.

12

6. Applicants impugn respondents order dated 9.5.2001 in OA-3027/2001 and by an order dated 24.5.2002 it was disposed of. In so far as the issue whether the applicants are casual workers or not it has been observed that in view of the finding recorded in para-7 of OA-1099/2000 the issue is no more res-integra. However, on the issue of non-sponsorship through Employment Exchange, OA was allowed. Learned counsel of the applicant Sh. Yogesh Sharma at Bar made a statement that CWP-6687/2002 filed by the respondents the order of the Tribunal has been stayed pertained to the decision in OA-3027/2001 but the decision of the Tribunal in OA-1099/2000 as not challenged before the High Court of Delhi has attained finality and stood complied with.

7. Learned counsel of the applicants contends that as it is established that the applicants are casual workers, consolidate payment of Rs.1000/- cannot be countenanced as being a casual worker they are entitled for minimum wages as prescribed. Learned counsel relies upon the order passed by the Chairman, Juvenile Welfare Board where on the assurance of the Chief Minister of Delhi payment of Rs.90 per day w.e.f. 23.8.1998 was to be paid. Moreover the following decision have been cited in support of the contention:-

1. Bhagwan Dass and Others Vs. State of Haryana and Ors. (1987(4)SCC 634
2. Daily Rated Casual Labour Vs. Union of India and Anr. (1988(1)SCC 122

3. Food Corporation of India Vs. Shyamal K. Chatterjee (2000(2)SC SLJ 390

8. On the other hand, learned counsel of the respondents vehemently opposed the contentions. According to them stay of the order passed by the Tribunal in CWP-6689/2002 is not only on the issue of Employment Exchange but as well as the status of House Auntis as casual workers. Ms. Renu George contends that House Auntis are engaged on voluntary basis. They are destitute women having no encumbrances while looking after the small children they are provided free boarding/lodging, food and also an honorarium of Rs.1000/- per month as they are no casual workers. They have no right to be regularised or accord temporary status.

9. It is stated that being volunteers these applicants are not appointed on sanctioned post carrying a scale of pay. In so far as report of Chairman Juvenile Welfare Board is concerned it is stated that the same is not authentic as not signed by all the members.

10. Learned counsel contends that she will produce a copy of Writ Petition filed in the High Court of Delhi.

11. We have carefully considered the rival contentions of the parties and perused the material placed on record. It is no more res-integra that the casual labour or a daily wager is entitled to minimum prescribed wages in the light of decision of Apex Court in State of Orissa & Ors. Vs. Balaram Sahu & Ors. (2003(1)SC SLJ 1). As regards the issue whether the applicants are casual workers or volunteers is concerned the decision of this Tribunal in OA-1099/2000 clearly held that House Auntis are casual workers for the purposes of conferment of temporary status and regularisation under DOP&T Scheme of September 1993. This order was complied with by the respondents by passing an order dated 9.5.2001 where the request has been turned down for want of initial engagement through Employment Exchange. The aforesaid finding as to the status of the applicants as casual labourer is concerned has been affirmed by a Division Bench in order passed in Contempt and is no more res-integra.

12. I have perused the order of stay passed by the High Court of Delhi in CWP-6687/2002. The applicant who has taken notice of the aforesaid Writ Petition and his statement made at Bar does not leave any doubt that what has been stated is an order passed by the Tribunal on 24.5.2002 in OA-3027/2001 which has basically dealt that rejection of request of the applicant for grant of temporary status on the ground of non-sponsorship through Employment Exchange.

13. The decision of the Tribunal in OA-1099/2000 where the applicants have been observed to be casual workers having been implemented and not assailed before the High Court of Delhi has attained finality and the issue is no more resintegra. Accordingly, I have no hesitation to hold that the applicants are casual workers for the purposes of accord of temporary status/regularisation.

14. In so far as grant of minimum wages is concerned once it is established that the applicants are casual workers they cannot be treated differently for the purpose of granted of wages once considered entitled for grant of temporary status under DOP&T Scheme 1993 in the light of the decision cited (supra) they are entitled for payment of wages at the minimum rates as prevalent from time to time.

15. In the result, O.A. is allowed. Respondents are directed to grant to the applicants minimum pay scale as admissible to a daily wager/casual worker. Applicants shall also be entitled to the arrears as well. The directions shall be complied with within a period of two months. No costs.

S. Raju
(Shanker Raju)
Member(J)

/vv/