

Central Administrative Tribunal, Principal Bench

O.A.No.1565/2003

Hon'ble Shri Shanker Raju, Member (J)

New Delhi, this the 9th day of September, 2003

1. Jai Pal, s/o Sh. Mansa Ram, employed as Casual Labour, in Delhi, RMS Office, Delhi - 6.
2. Smt. Mithilesh, w/o Sh. D.D.Sharma, employed as Casual Labour, at RMS Bhawan, Delhi - 6.
3. Smt. Bimla Rani, w/o Sh. Chaman Lal employed as Casual Labour in RMS Bhawan, Delhi - 6.
4. Smt. Tara Devi, w/o Late Kishan Lal employed as Casual Labour at RMS Bhawan, Delhi - 6.
(By Advocate: Shri P.K.Dey) ... Applicants

Vs.

1. The Union of India, through the Secretary, Ministry of Communications Dept. of Posts, Dak Bhawan, New Delhi - 110 001.
2. The Chief Postmaster General Delhi Circle, Meghdoot Bhawan, New Delhi - 110 001.
3. The Sr. Supdt. Delhi Sorting Division RMS Bhawan,, New Delhi - 110 001. ... Respondents
(By Advocate: Shri R.P.Aggarwal)

O R D E R (Oral)

By Shri Shanker Raju, Member (J):

Applicant impugns a show cause notice dated 22.7.2002 as well as order dated 10.6.2003 cancelling his temporary status. Quashing of the above orders has been sought with all consequential benefits.

2. By an interim order dated 20.6.2003, operation of the aforesaid order has been stayed.

3. Applicants had been working as Part-time casual labourers were made Full-time casual labourers w.e.f. 1.6.1997. Thereafter, temporary status was conferred upon them w.e.f. 1.6.1998. By a notice dated 22.7.2002 a proposal has been made in the form of show cause notice to withdraw their temporary status, giving rise to the present OA.

4. Sh. P.K.Dey, learned counsel for applicants contends that the Scheme of Telecommunications dated 12.4.1991 has been modified and lastly by letter dated 1.11.1995 it has been

decided that those full time casual labourers recruited from 29.11.1989 to 1.9.1993 should also be considered for accord of temporary status.

5. It is contended that in similar decision, in Smt. Santra and Others v. Union of India & Others, OA 2118/2002 decided on 11.2.2003, the action of the respondents has been set-aside. Relying upon the analogy of the ratio in Apex Court decision, Union of India & Others v. Mohan Pal, 2002(4) Scale 216, it is stated that once the temporary status has been conferred, the same would not be disturbed even the Scheme is one time. It is further stated that the Full Bench Judgements 1997-2001 ATJ 376 Bhuri Singh v. Union of India, the Scheme of post issued by the Department of Posts has been held to be ongoing and such analogy Telecommunications Scheme should also be treated as alike.

6. Further relying upon the decision of the Apex Court in H.L.Trehan v. Union of India, 1989 (9) SC ATC 650, it is stated that a decision has already been taken to cancel the temporary status and the show cause notice issued is a mere formality and post decisional hearing.

7. On the other hand, respondents' counsel Shri R.P.Aggarwal strongly controverted the contentions and stated that as per the Scheme, those who had been holder of Full-time status on casual basis up to 1.9.1993 are only to be considered. As the applicants are conferred Full-time status after 1.9.1993, the Scheme is not applicable.

8. It is further stated that the temporary status was accorded wrongly and the mistake has been rectified. In so far as Bhuri Singh's case supra is concerned, it is stated that the same would not apply as the High Court of Kerala in CA No.15650/2001 decided on 31.10.2002 Union of India v. CAT held that the Scheme is one time measure.

9. I have carefully considered the rival contentions of the parties and perused the material on record. As the Scheme of DoPT has been held to be one time measure but the temporary status accorded has not been disturbed on the same analogy, the Scheme of the Department of Posts where the temporary status has been accorded to those who had got Full-time status after 1.9.1993, having conferred temporary status, were disturbed the same, cannot be diverged against them.

10. Moreover, Full Bench in Bhuri Singh case held that the Scheme is one time.

11. Another issue which vitiates the action of the respondents is that the show cause notice issued to the applicant is after they have decided to cancel the temporary status of the applicant. The issuance of show cause notice is only an empty formality and would amount to a post decisional hearing which cannot be countenanced, in view of the decision of the Apex Court and H.L.Threan's case supra.

12. The applicability of High Court decision in view of the Mohan Pal's case, would not come in the way of the applicants, to be restored back temporary status.

13. In my considered view, the present OA, in all fours, is covered by the decision of this Tribunal in Smt. Santra v. Union of India, OA 2118/2002 decided on 11.2.2003. Accordingly, OA is allowed. Impugned orders are quashed and set-aside. Respondents are directed to restore the applicants temporary status with all consequential benefits within three months from the date of receipt of a copy of this order. No costs.

S. Raju
(Shanker Raju)
Member (J)

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