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CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA 1928/2003

New Delhi, this the 19th day of November, 2003

Hon'ble Sh. Sarweshwar Jha, Member (A)

Sh. Bablu, S/o Sh. Bed Ram working
as Casual Labourer conferred
with Temporary Status in 40 Coy
ASC, Supply, Type Meerut Cantt
R/o Village Bhawan pur Sial Distt. Meerut.
...Applicant
(None present)

V E R S U S

1. Union of India through
Secretary, Ministry of Defence
South Block, New Delhi.
2. The Adjutant General AG's Branch
org4/Civil (b), Army H.Q. DHQ
P.O. New Delhi - 110 011.
3. The Director General
Supply and Transport (St-12)
QMG's Branch, Army Headquarters
DHQ P.O. New Delhi.
4. The Controller of Defence Accounts
(Army), Belvadier Complex, Meerut Cantt.
5. The Commandant
40, Supply Coy ASC Type C
Meerut Cantt.

...Respondents

(By Advocate Sh. Ashish Nishchal,
proxy for Sh. Rajinder Nishchal)

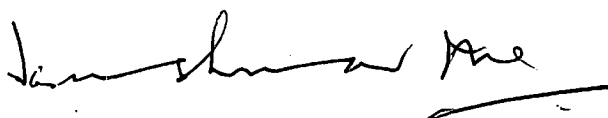
O R D E R (ORAL)

Shri Sarweshwar Jha,

Heard.

2. When the case was taken up for hearing, none appeared on behalf of the applicant. I accordingly proceed to dispose of the case in terms of Rule 15 of the CAT (Procedure) Rules, 1987 after hearing the learned proxy counsel for the respondents and perusing the material available on record.

3. The applicant has preferred this OA with prayers that the respondents be directed to regularise his services for absorption against Group 'D' post from the same date, i.e., 3-7-2003 from which the



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services of his juniors have been regularised. He has also prayed for directions being given to the respondents to pay him wages and other benefits associated with his prayer for regularisation, as has been done in the case of similarly situated employees who had approached the Tribunal earlier. He has prayed for his seniority being reckoned w.e.f. 10-9-93 from which date the Scheme formulated by the DOPT on the subject came into being with arrears of pay and other benefits accruing to him under the said Scheme.

4. The applicant was initially engaged by the respondents in October, 1989 as a casual labourer against group 'D' post after having called the names of eligible candidates from the Employment Exchange. He also claims to have been granted temporary status as per the Scheme of the DOPT formulated in the year 1993. He has accordingly been in continuous engagement of the respondents since 1989. He claims to have fulfilled the condition of having served 240 days in each year, which is a major condition for regularisation of service. It is in accordance with this aspect of the conditions for regularisation of service of casual labourers that, as he has claimed, he was granted temporary status.

5. He has submitted that his engagement was made against work of intermittent and casual nature against regular vacancy of Safaiwala in group 'D'. He has further submitted that the requisite formalities which are necessary for offering appointment on regular basis like verification of educational qualification, medical fitness certificate, verification of antecedents from police authorities,



caste certificate etc. had been completed in his case before his engagement as a casual labourer. However, he was dis-engaged w.e.f. 5-1-96 along with some other similarly placed casual labourers who had also been granted temporary status. He has, however, complained that his juniors are still in the engagement of the respondents. Accordingly, he has alleged that he has been discriminated against by the respondents who have not followed the principles of "first come last go".

6. He has referred to the decisions of this Tribunal in OA 630/95 whereby similarly placed persons have been given the benefit of reinstatement and also payment of wages at certain rates as prescribed for the purpose (Annexure A-5), and has accordingly prayed that the same benefits could also be extended to him, as his case is fully covered under the decisions of the Tribunal given in the aforesaid OA.

7. The learned proxy counsel for the respondents, on being asked, whether the case of the applicant is fully covered under the decisions of this Tribunal as referred to hereinabove, he has submitted in the affirmative. On perusal of the reply which has been filed by the respondents in the matter, it is, however, observed that the respondents had a few vacancies of Chowkidars which, they have submitted, have been filled in compliance with the orders of the Hon'ble Courts. It is further observed that out of 13 vacancies of Chowkidars, they have filled 8 vacancies in compliance with the orders of the Hon'ble High Court dated 17-1-2002 in Writ Petition No.3649/2001. It is, therefore, inferred that they are still left with 5 vacancies, as there is no explanation with

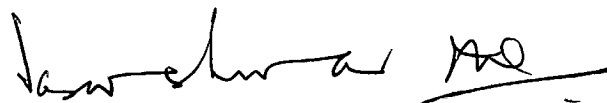


regard to whether the 5 vacancies have also been filled by them in due course.

8. In view of the fact that similarly situated cases have been decided by this Tribunal and also by the Hon'ble High Court, in the fitness of things, it would be appropriate that similar dispensation is extended to the case of the applicant also, who has alleged that his juniors have been retained by the respondents and are in their engagement till date. I have accordingly considered the facts and circumstances of the matter and heard the learned proxy counsel for the respondents and also carefully perused the materials on record and am of the considered opinion that the appropriate course would be that this OA is disposed of with directions to the respondents to give a fresh consideration to the case of the applicant in the light of the decisions of this Tribunal in OA 630/96 decided on 27-11-2000 and, if on such consideration, it is found that this case is identical with the case of the applicant, to extend the said benefits to the applicant from the relevant dates.

9. The respondents are further directed to dispose of this matter by issuing a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order.

10. This OA thus stands disposed of in terms of the above directions.



(SARWESHWAR JHA)
MEMBER (A)

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