

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) No.7190/2004, W.P.(C) No.7191/2004, W.P.(C) No.
7192/2004

% Date of Decision: 27th February, 2008

BRIJ KISHORE & ORS. Petitioner
! Through: Mr. G.D. Bhandari, Advocate

versus

\$ UOI & ORS. Respondents
^ Through: Ms. Anjana Gosain, Advocate

CORAM:

* **HON'BLE MR.JUSTICE MANMOHAN SARIN**
* **HON'BLE MS. JUSTICE VEENA BIRBAL**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Manmohan Sarin, J. (Oral)

Petitioner by this writ petition seeks to assail order dated 12th March, 2003 passed in OA No. 2394/2001 as unsustainable in law. The Tribunal by the impugned order held that the claim of the applicants for grant of temporary status could not be countenanced and taken cognizance belatedly. However, it is held that if the applicants raise their grievance, in case they are not accorded the benefit of 1/30th of minimum pay scale and particularly those who have been regularized after 1980, the same shall be gone into by the respondents through a reasoned

and speaking order. Barring the above observation, the OA was dismissed as devoid of merits. Learned counsel for the petitioner submits that there are in all 55 employees in the present case. He submits that these employees were engaged as casual workers on different dates from 1971 to 1973 and continued to work till 1979. After the completion of the project, they were given employment in the open line with effect from 1st May, 1980. It is in respect of these employees OA was filed before Tribunal contending that since they had completed 120 days from period 1971 to 1973, they ought to be accorded temporary status. The challenge in OA was inter alia for non granting of his temporary status. Apart from other grounds, the Tribunal while rejecting the said claim has observed as under :

“14. I have carefully considered the rival contentions of the parties and perused the material on record. Through this O.A., in fact, applicants seek temporary status on completion of 120 days of respective service from the date of their initial engagement and also claim after completion of 180 days, 1/30 of the minimum pay scale plus D.A. In this furtherance, applicants also seek counting of 50% of the service of Temporary Status towards qualifying service for the purpose of pension. In fact, all the applicants were initially engaged from the year 1971 to 1976 and completed 120 days in the same year, their claim for accord of temporary status and counting 50% of service till their regularization in 1980, cannot be countenanced both on merit and limitation as

well as this Court has no jurisdiction to take cognizance of a cause of action of which had arisen three years prior to establishment of Central Administrative Tribunal, i.e. 01.11.1985 as per Section 21(2) of Central Administrative Tribunals Act, 1985.”

“15. Moreover, from the perusal of the service record, all the applicants, who had been working either in Microwave or Construction projects and applicants have never been working before regularization in open line, and as per the Railway Board's Circular dated 12.07.1973, which stipulates accord of temporary status on expiry of four years continuance employment to the casual labourers, has no application in the instant case.”

We find that the Tribunal has succinctly dealt with the contention and given the reason for not entertaining the claim of these petitioners which was also barred by limitation.

We are in agreement with the view as taken by the Tribunal above. We are not persuaded simply because there is a subsequent response in all the representations where the department has clarified its stand, the same would accord a fresh cause of action.

Petition has no merits and the same is dismissed.

Manmohan Sarin, J.

Veena Birbal, J.

February 27, 2008
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