

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.2615 of 2015 (O&M)

Date of Decision: 30.04.2015

Union of India & Ors.

... Petitioners

VS.

Kanwaljit Singh & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Present: Mr. Namit Kumar, Advocate for the petitioners

Mr. Amar Chaudhary, Advocate for respondent No.1

SURYA KANT, J. (Oral)

(1) The undisputed facts are that the first respondent was engaged as Extra Departmental Delivery Agents (EDDA) on 16.04.1991. Thereafter he was engaged as Wash Boy on *ad hoc* basis on 04.07.1992 at Tiffin Room. Respondent No.1 was later on treated as 'casual labourer' with 'temporary' status w.e.f. 15.11.2000. His claim *re:* regularization of services has been rejected on the ground that he was not employed in Tiffin Room as on 01.10.1991, namely, the cut off date mentioned in the Circular dated 10.04.1997 (Annexure R2) issued by the Director General of Posts.

(2) The Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') has turned down the above-stated objection vide the order under challenge dated

09.07.2014 on the ground that similarly-placed employees, namely, Shiv Kumar, Manohar Lal and Rakesh Kumar were granted the benefit of policy circular (Annexure R2) and their services were regularized w.e.f. 01.10.1991.

(3) The first respondent was undoubtedly in the service of the postal Department from 16.04.1991 i.e. on the cut-off date i.e. 01.10.1991. Consequently, the Tribunal has directed the petitioners to reconsider the regularization of first respondent w.e.f 04.07.1992, namely, the date when he was engaged in the Tiffin Room.

(4) On the previous date of hearing, learned counsel for the petitioners was directed to have instructions as to why services of the first respondent have not been regularized at least w.e.f. 15.11.2000 when he was granted temporary status?

(5) It is informed that the aforesaid claim has been rejected by the authorities in a mechanical manner on the basis of those very Instructions of the Director General of Posts which have been strongly disapproved by the Tribunal.

(6) We have heard learned counsel for the parties on merit and gone through the record.

(7) It is an admitted fact that the first respondent is in service of the petitioner-Department since 16.04.1991. Utilization of his services as an Extra Departmental Delivery Agent or as a Wash Boy at the Tiffin Room was exclusively the prerogative of

the employer and nothing lies in the hands of a labourer. We see no justification for the artificial classification based upon the fortuitous circumstance of the 'place of engagement' of a labourer or the nature of duties assigned to him.

(8) There is hardly any clarification given on facts as to why a favourable treatment was extended to the similarly-placed persons like Shiv Kumar, Manohar Lal and Rakesh Kumar and denied to the first respondent? The Tribunal appears to be right in observing that there is no reasonable classification made by petitioners amongst the same set of workers for the purpose of conferring status of regular employee even if they working in different units. The first respondent has since served the petitioners for about 2½ decades. For how long the authorities can exploit the first respondent by changing the nomenclature of his post from 'Extra Departmental Delivery Agent' to 'casual worker' and then to 'temporary status'? We are of the firm view that the first respondent deserves the security of employment at least before he attains the age of superannuation as the better half of his life has already gone in the services of petitioner-authorities.

(9) It is not the case of petitioners that the first respondent entered into service through backdoor or that he lacked the prescribed qualification at the time of engagement. It is also not

their case that the first respondent does not fulfill the qualifications prescribed for a Wash Boy in the Tiffin Room.

(10) It equally deserves mention that the first respondent was not retained in service as a compulsion due to any order passed by Court or Tribunal for his retention in service. The petitioner-authorities engaged him as per their own volition and have continued him in employment uninterruptedly only because his services were required. If the petitioner authorities have been in need of the services of respondent No.1 for a period of more than 24 years, how can they be heard to say that they will still not confer the status of regular employee on him when respondent No.1 is otherwise overage to secure any other public employment?

(11) For the reasons afore-stated, we do not find any merit in this writ petition which is accordingly dismissed.

(Surya Kant)
Judge

30.04.2015
vishal shonkar

(P.B. Bajanthri)
Judge