

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.9126 of 2015

Date of Decision: May 11, 2015

Union of India and others

.....Petitioners

versus

Central Administrative Tribunal, Chandigarh Bench and
another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.P.C.Goyal, Advocate, for the petitioners.

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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?

Surya Kant, J. (Oral)

Union of India and its authorities in the Central Excise Department, assail the order dated 11.11.2014 whereby the Central Administrative Tribunal, Chandigarh Bench has directed them to grant temporary status to the second respondent notionally from the due date alongwith arrears for a period of three years prior to the date of filing the Original Application.

[2] The facts necessitating the above-stated directions by the Tribunal may be briefly noticed.

[3] The second respondent was appointed as a casual labourer (Sweeper-cum-Frash) in the Central Excise Division, Patiala in the year 1991 at the rates fixed by the Deputy Commissioner. He was engaged on full time basis.

[4] The Department of Personnel and Training, Government of India issued the Casual Labourers (Grant of Temporary Status & Regularization) Scheme, 1993, whereunder the casual labourers who were in employment on 01.09.1993 were entitled to the benefits as temporary casual employees. They were also entitled to regularization of their services as per the Policy Guidelines dated 07.06.1988.

[5] The second respondent fulfilled all the eligibility conditions contained in the 1993 Scheme and was entitled to the grant of temporary status, but no such benefit was extended to him.

[6] One Vinod Kumar, who was also engaged in the same manner and was a similarly placed employee, approached the Tribunal in the year 2004 and vide order dated 23.07.2007, he was held entitled to the benefit of temporary status. That order of the Tribunal was upheld by this Court and it attained finality.

[7] Since the benefit of order passed in Vinod Kumar's case was also not expanded to cover the second respondent, he too approached the Tribunal in the year 2013 and vide order under challenge, his claim has been accepted in the manner as described in the opening paragraph of this order.

[8] We have heard learned counsel for the petitioners and gone through the record.

[9] It is contended that the second respondent ought to have approached the Prescribed Authority under the Contract Labour (Regularization and Abolition) Act, 1970 or that he could raise 'industrial dispute' in such like situation. We are, however, not impressed by the contention. It is not the case of petitioners that the second respondent was

engaged through a Contractor or that assignment was ever out-sourced. The relationship of master and servant between the petitioners and second respondent was never in dispute. That relationship cannot possibly be questioned for the reason that respondent No.2 was directly engaged and has been uninterruptedly paid salary by the petitioners only. Similarly, there is no dispute on facts which might require adjudication by a Forum like Industrial Tribunal. The case of the second respondent is founded upon a Scheme notified by the Central Government. In addition, he has alleged discrimination in the matter of grant of benefit of that Scheme. Such like issues are required to be and have rightly been adjudicated by the Tribunal.

[10] Faced with this, learned counsel for the petitioners urges that the Original Application ought to have been dismissed it being hopelessly time barred. We see no merit in this contention as well. The Scheme of 1993 was notified by the Central Government and the petitioner-authorities were obligated to implement the same and grant benefits thereunder to all the eligible casual labourers. After the Tribunal and this Court had granted the benefit of Scheme to a similarly placed person (Vinod Kumar), there was no reason either in law or equity to deny the same benefit to respondent No.2.

[11] The conferment of status as a temporary employee and consequential enhancement in wages, in its very nature is a continuous cause of action. The delay on the part of respondent No.2 has caused no prejudice to the petitioners. In fact, it is respondent No.2 who has immensely suffered on account of delay. The Tribunal has restricted the arrears of pay

for a period of three years preceding the date of filing the Original Application. Had he approached the Tribunal well in advance, he would have drawn higher wages throughout these years. We, thus, hold that the plea of limitation, delay and laches, is also devoid of any merit.

[12] No other ground has been raised.

[13] Dismissed.

[SURYA KANT]
JUDGE

May 11, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE