



W.P.No.11547 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 15.11.2023

DELIVERED ON: 05.12.2023

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE TMT.JUSTICE P.DHANABAL

W.P.No.11547 of 2023

K.Ramesh

.. Petitioner

Vs.

1.The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai-600 104.

2.Union of India rep. by
The Chief Postmaster General,
Tamil Nadu Circle, Chennai-600 002.

3.The Postmaster General,
Central Region, Tamil Nadu,
Tiruchirapalli-620 001.

4.The Senior Superintendent of RMS,
Tiruchirapalli Division,
Tiruchirapalli-620 001.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying for a Writ of Certiorari calling for the records relating to the 1st



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impugned order dated 01.03.2022 passed in O.A.No.144 of 2016 and 2nd impugned order dated 25.11.2022 in Review Application No.2 of 2022, passed by the first respondent and to quash the same.

For Petitioner : Mr.Ramaswamyrajarajan
For Respondents : Mr.G.Babu, Senior Panel Counsel
for R2 to R4
R1- Tribunal.

ORDER

D.KRISHNAKUMAR, J.

Challenging the order of the Central Administrative Tribunal, Chennai dated 01.03.2022 passed in O.A.No.144 of 2016 and the order dated 25.11.2022 passed in Review Application No.2 of 2022, dismissing the petitioner's claim for conferment of Temporary Status with effect from 01.01.1997 and for other consequential benefits, the present writ petition is filed.

2. Brief facts of the case reads as under:

2.1. The petitioner was initially engaged as Mazdoor in the year 1991 and later on appointed as Rent House Attendant in the year 1995 and he was made to work for 7 1/2 hours day till 2005. Subsequently without any notice, his working hours was reduced to 3 to 4 years and



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again in the year 2013, he was allotted 8 working hours per day without designating him as Full Time Casual Labourer.

2.2. According to the petitioner, he, being an eligible casual labourer to be regularized, made representation to the respondents to confer him permanent status and to regularize his services. However, the respondents had reduced the working hours of the petitioner and his wages were also reduced. Aggrieved by the same, the petitioner filed O.A.No.310/00144/2016 seeking conferment of temporary status and for consequent regularization.

2.3. The respondents have filed a reply statement before the Tribunal stating that as per the order of the first respondent in Letter No.REP/84-73/93 dated 23.12.1993, the Casual Labourers whose services have been engaged prior to 11.02.1988 alone are eligible for inclusion of their names in the dovetailed list. Since the applicant was engaged only from 18.06.1991, i.e., after the crucial date of 11.02.1988, the Secretary, Department of Posts, in the order in O.A.No.389/2003, communicated vide Directorate Letter No.66-84/2003-SPB.I dated



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19.12.2003 has directed to remove the name of the petitioner/applicant from the list of approved Mazdoors, after issuing a show cause notice and obtaining his reply. The petitioner/applicant did not challenge the said order removing him from the list of approved Mazdoors immediately in the year 2001 and however after a delay of 12 years, he had made a challenge to the said order, which is unsustainable.

2.4. According to the respondent, the engagement of the petitioner/applicant as Rest House Attendant was only a temporary arrangement without conferring him any right to claim regular absorption and there was no sanctioned post at Rest House Chennai and his services were utilized on part time basis only to cater the needs of RMS staff working in running section. The petitioner made a representation to the second respondent and based on the orders of the second respondent, he was utilized for 8 hours daily in Rest House Chennai from June 2013 to October, 2015 and taking into account the workload, his duty hours was reduced to 4 hours with effect from 27.10.2015 and again his duty period was revised as 6 hours and 50 minutes with effect from 07.01.2016. As per the communication of the Ministry of Communications & IT



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Department of Posts (Personnel Division), Letter No.66-50/2014 - SPB-I dated 30.06.2014, the petitioner is not entitled for grant of temporary status or regularisation of his services and therefore, prayed for dismissal of the original application.

2.5. The Tribunal, after detailed consideration of the factual aspects, legal submissions and taking into consideration the decision of the Hon'ble Supreme Court in *State of Karnataka and Others v. Umadevi and Others [2006 (4) SCC 1]* and other decisions had dismissed the original application, vide order dated 01.03.2022. The petitioner filed review application before the Tribunal in R.A.No.310/00002/2022, which was also dismissed, vide order dated 25.11.2022. Aggrieved by the dismissal of the Original Application by the Tribunal and subsequent review application, the petitioner has filed the instant writ petition.

3. The learned counsel for the petitioner contended that the main prayer in the original application is to confer temporary status to the



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petitioner and whereas the Tribunal has misunderstood as if the petitioner had sought for regularisation. It is further contended that the scheme of grant of temporary status and regularization which was communicated through DG's Letter dated 12.04.1991 was extended to those full time casual labourers, who were engaged / recruited after 29.11.1989 and upto 01.09.1993 and the same is evident from the Government of India instructions, Department of Post Letter No.66-52/92-SPB I dated 01.11.1995 and the petitioner is eligible to be considered under Casual Labourers (Grant of Temporary Status and Regularisation) Scheme dated 25.04.1991, which was communicated under DG's Letter No.45-95/97 SPB-I, dated 12.04.1991. It is further contended by the learned counsel for the petitioner that the Casual Labour (Grant of Temporary Status & Regularization) Scheme, 1993 and the O.M. dated 12.07.1994 in and by which the benefit of temporary status would be given to those who have been employed through employment exchange. The said Scheme is not applicable to the case of the petitioner herein, because the Postal Department is having its own Scheme of Casual Labour (Grant of Temporary Status and Regularisation) Scheme dated 25.04.1991 and since the petitioner had completed 480 days of service in the year 1993



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itself, he is completely eligible to be treated as a full time casual labourer and entitled to be considered for grant of temporary status as per the said Scheme, but the Tribunal has failed to consider these aspects in proper perspective and prays for setting aside the order of the Tribunal.

4. Dr.G.Babu, learned Standing Counsel appearing for the respondents 2 to 4 would contend that the petitioner was engaged in the year 1991 as a part time contingent labour, purely on temporary basis and his wages were paid for the hours of engagement and full time casual labourers only will be conferred with temporary status and since the petitioner was not engaged as a full time casual labourer, he cannot claim temporary status and further the petitioner was not employed in any sanctioned post or sponsored through employment exchange. It is further contended by the learned Standing Counsel for the respondents 2 to 4 that the petitioner, being engaged on contingent basis and whose services are utilized on needy basis, is not a casual labour as claimed by the petitioner and therefore, prays for dismissal of the writ petition.

5.This Court has considered the rival submissions and also perused



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the materials available on record.

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6. The point for consideration in this writ petition is whether the petitioner is entitled for temporary status as per the Scheme of the Postal Department, namely Casual Labourers (Grant of Temporary Status and Regularization) Scheme dated 25.04.1991.

7. The fact remains that the petitioner was appointed as Mazdoor / Casual Labour in the year 1991. He was appointed as Part Time contingent Rest House Attendant at RMS Rest House, Madras with effect from 22.12.1995, vide order dated 15.12.1995.

8. The Central Government introduced a Scheme called "Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993, with effect from 01.09.1993, which is applicable to casual labourers in employment of the Ministries / Departments of Government of India and their attached and subordinate officers on the date of this order. But it shall not be applicable to casual labourers in Railways, Department of Telecommunication and Department of Posts, who already



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have their own Schemes. Clause 4(i) of the said Scheme reads that "Temporary Status" would be conferred on all casual labourers, who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).

9. In pari materia to the same, a separate scheme was framed by the Government of India for Department of Post for conferment of Temporary Status to the casual labourers recruited after 29.11.1989 and upto 01.09.1993. According to the said scheme issued vide Letters No.45-95/87-SPB I dated 12.04.1991 and No.66-9 /91-SPB I dated 30.11.1992, part time and full time casual labourers, who were in employment as on 10.09.1993, were eligible to be conferred "Temporary Status" on satisfying other eligibility conditions. Subsequently, as per Director General of Posts communication No.66-52/92/SPB-1 dated 09.08.1996, it has been decided that full time casual labourers recruited after 10.09.1993 and 12.11.1995 may also be considered for grant of benefits under the Scheme.



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10. It is evident from the above Scheme of the Department of Posts, a person is eligible to be conferred with temporary status provided he is appointed on or before 01.09.1993 and also satisfying other eligible conditions. According to the petitioner, he is entitled to be granted temporary status under the aforesaid scheme as the main object of the Scheme formulated by the Postal Department is to give the benefit of conferment of temporary status for irregularly engaged casual labourer. In order to be considered under the Scheme, for the purpose of computation of eligible service, half of the service rendered as a part time casual labourer should be taken into account. Though the petitioner claim that he had completed 480 days of service in the year 1993 itself, he has not produced any substantive material either before the Tribunal or before this Court.

11. The undisputed fact remains that the petitioner came to be appointed initially in the year 1991 as Mazoor and vide order dated 15.12.1995, he was appointed as Part Time Contingent Rest House Attendant with effect from 22.12.1995. The petitioner was employed in a



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non-sanctioned post and his appointment was also not sponsored by the Employment Exchange. He was appointed much after the cut off date viz., 12.11.1995 as per the Scheme of the Department of Posts for conferment of Temporary Status. In the absence of sufficient materials substantiating that the petitioner possess the minimum qualifying service for conferment of temporary status and in the light of the fact that his initial date of appointment is much after the cut off date prescribed as per the Scheme of Conferment of Temporary Status to Causal Labourers, framed by the Department of Post vide communication of DG, Department of Posts dated 09.08.1996, we have no hesitation to hold that the petitioner is not entitled to the relief of conferment of temporary status. This Court finds much force on the contention of the learned Standing Counsel for the respondents and finds no reason to interfere with the order of the Tribunal and the writ petition lacks merit and deserves dismissal.

12. In the light of the reasons assigned above, the writ petition stands dismissed. No costs.



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[D.K.K., J.] [P.D.B., J.]
05.12.2023

Index:yes/no

Internet:yes

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**D.KRISHNAKUMAR, J.,
&
P.DHANABAL, J.**

Jvm

**Order in
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