

A DIRECTOR GENERAL DOORDARSHAN MANDI HOUSE,
NEW DELHI AND ORS.

v
MANAS DEY AND ORS.

NOVEMBER 17, 2005

B

[ARIJIT PASAYAT AND R.V. RAVEENDRAN, JJ.]

C *Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993—Clause 4—Nature of scheme—Held: Not an ongoing scheme—To acquire “temporary” status, the casual labourer should be in employment as on the date of commencement of the Scheme and also should have rendered a continuous service of at least one year.*

D Respondents filed O.A. claiming grant of temporary status under Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993 on the ground that they had rendered service from 1988 to 1997 as casual workers. Tribunal allowed O.A. holding that it is an ongoing scheme and as and when casual labourers complete 240 days of work in a year or 206 days (in case of offices observing 5 days a week), they are entitled to get “temporary” status. High Court affirmed the order of Tribunal. Hence the present appeal.

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Allowing the appeal, the Court

F HELD: Clause 4 of Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993 states that the conferment of “temporary” status is to be given to the casual labourers who were in employment as on the date of commencement of the Scheme. Clause 4 of the Scheme does not envisage it as an ongoing scheme. In order to acquire “temporary” status, the casual labourer should have been in employment as on the date of commencement of the Scheme and he should have also rendered a continuous service of at least one year which means that he should have been engaged for a period of at least 240 days in a year or 206 days in case of offices observing 5 days a week. From clause 4 of the Scheme, it does not appear to be a general guideline to be applied for the purpose of giving “temporary” status to all the casual workers, as and when they complete one year’s continuous service. [300-G; 301-A, B]

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Union of India v. Gagan Kumar, JT (2005) 6 SC 410, relied on. A

Union of India and Anr. v. Mohan Lal and Ors., [2002] 4 SCC 573, held inapplicable.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6857 of 2005. B

From the Judgment and Order dated 16.9.2004 of the Calcutta High Court in W.P.C.T. No. 1341 of 2001.

Rajeev Sharma for the Appellants.

Dhruv Mehta, Rana S. Biswas and Mrs. Sarla Chandra for the Respondents. C

The Judgment of the Court was delivered by

ARIJIT PASAYAT, J. Leave granted.

Appellants call in question legality of the judgment rendered by a Division Bench of the Calcutta High Court holding that the respondent were entitled to the benefit under the scheme called Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993 of Government of India. Judgment and order dated 7th September, 2001 passed by the Calcutta Bench of Central Administrative Tribunal (in short the 'Tribunal') in OA No. 992 of 1998 filed by the respondent under Section 19 of the Administrative Tribunal Act, 1985 (in short the 'Act') was held to be in order. Factual background in a nutshell is as follows: D E

Respondents filed an original application before the Tribunal claiming that they had rendered service from 1988 to 1997 as casual workers. According to them they have completed the requisite period of service as described hereinbelow: F

"It was claimed that the department had circulated by O.M. No. 51016/2/90-Estt.(C) dated 10.9.1993 a scheme for grant of temporary status and regularization of casual workers. The scheme is called Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Govt. of India, 1993. The said scheme came into force with effect from 1.9.1993. The scheme envisaged grant of temporary status to casual labourer who had worked at least 240 days in a year (206 days in the case of offices observing 5 days a week)". G H

A The relevant portion of paragraph 3 of the scheme reads as follows:

“This scheme is applicable to casual labourers in employment of the Ministries/Department of Government of India and their attached and subordinate officer, on the date of issue of these order.”

B Paragraph 4(1) of the Scheme reads as follows:

“*Temporary Status* - Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this O.M. and 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(206 days in the cases of offices observing 5 days a week).”

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E It was held by the High Court that though this Court had in Civil Appeal No. 224 of 2000 and connected appeals held that the scheme in question was not an on going process but one time scheme yet the judgment and order of the Tribunal having been rendered on 7th September, 2001 long before the decision of this Court in Civil Appeal referred to above, a right which had arisen from the Tribunal’s order has been saved by this Court in its judgment. It was noted that positive direction has been given by this Court in the judgment that those who had already been given temporary status on the assumption that the scheme is an on going scheme should not be deprived of the said status because of the judgment.

According to learned counsel for the appellant the High Court’s judgment is clearly erroneous on the face of the judgment in *Union of India v. Mohan Pal and Ors.*, reported in [2002] 4 SCC 573.

F On the contrary learned counsel for the respondents submitted that the observations in paragraph 11 of *Mohan Lal’s* case (supra) protect them as was rightly observed by the High Court.

G The controversy can be resolved on the basis of the interpretation of clause 4 of the Scheme. As already noticed, the Scheme came into effect from 1.9.1993.

H Clause 4 of the Scheme is very clear that the conferment of “temporary” status is to be given to the casual labourers who were in employment as on the date of commencement of the Scheme. Tribunal has taken the view that this is an ongoing scheme and as and when casual labourers complete 240 days of work in a year or 206 days (in case of offices observing 5 days a

week), they are entitled to get “temporary” status. We do not think that clause 4 of the Scheme envisages it as an ongoing scheme. In order to acquire “temporary” status, the casual labourer should have been in employment as on the date of commencement of the Scheme and he should have also rendered a continuous service of at least one year which means that he should have been engaged for a period of at least 240 days in a year or 206 days in case of officers observing 5 days a week. From clause 4 of the Scheme, it does not appear to be a general guideline to be applied for the purpose of giving “temporary” status to all the casual workers, as and when they complete one year’s continuous service. Of course, it is up to the Union Government to formulate any scheme as and when it is found necessary that the casual labourers are to be given “temporary” status and later they are to be absorbed in Group “D” posts.

This position was highlighted in *Union of India v. Gagan Kumar*, JT (2005) 6 SC 410.

Above being the position the Tribunal’s order is clearly untenable and the High Court was in error in proceeding under the assumption that the protection given to some of the parties in *Mohan Lal’s* case (supra) applied to the facts of the present case.

As was observed in *Gagan Kumar’s* case (supra) the observations in paragraph 11 of *Mohan Lal’s* case (supra) were rendered in a different factual background and context and have no application to the facts of the present case. Appeal is allowed with no order as to costs.

D.G.

Appeal allowed.