

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 2536/2002

This the 13th day of August, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

1. Shri Vijay Pal Singh, Casual Labourer
CDA (AF), West Block V, R.K.Puram,
New Delhi-110066.
2. Shri Jaya Chand, Casual Labourer
CDA (AF), West Block V, R.K.Puram,
New Delhi-110066.
3. Shri Amar Singh, Casual Labourer
CDA (AF), West Block V, R.K.Puram,
New Delhi-110066.
4. Shri Rakesh Kumar, Casual Labourer
CDA (AF), West Block V, R.K.Puram,
New Delhi-110066.
5. Shri Chedi Lal, Casual Labourer
CDA (AF), West Block V, R.K.Puram,
New Delhi-110066.
6. Shri Sunil Kumar, Casual Labourer
DCDA (AF), Subroto Park,
New Delhi-110010.
7. Shri Dev Kumar, Casual Labourer
DCDA (AF), Subroto Park,
New Delhi-110010.
8. Shri Srivrat Kr., Casual Labourer
DCDA (AF), Subroto Park,
New Delhi-110010.
9. Shri Ashok Kumar, Casual Labourer
DCDA (AF), Subroto Park,
New Delhi-110010.
10. Shri Azad Singh, Casual Labourer
DCDA (AF), Subroto Park,
New Delhi-110010.
11. Shri Vimal Singh, Casual Labourer
DCDA (AF), Subroto Park,
New Delhi-110010.
12. Shri Jitender Kumar, Casual Labourer
DCDA (AF), Subroto Park,
New Delhi-110010.

(By Advocate: Sh. E.J.Vergheese)

Versus

1. The Union of India through
Secretary Ministry of Defence,
South Block, New Delhi-110011.
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2. The Controller General of Defence,
Accounts,
West Block V, R.K.Puram,
New Delhi-110066.
3. The Controller of Defence,
Accounts, (AF),
West Block V, R.K.Puram,
New Delhi-110066.
4. The Deputy Controller of Defence Accounts,
Subroto Park, New Delhi.

(By Advocate: Sh. B.K.Berera)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

This is a joint application filed by the applicants seeking a direction to the respondents to regularise their services in Group 'D' cadre with all consequential benefits.

2. The facts in brief are that the applicants had been working as casual workers since 1984 as per detail given below:-

Sl. No.	Name	Date of apptt. from	To-date	Total Yrs
1.	Sunil Kumar	3/1/94	2002	8 years
2.	Vijay Pal Singh	25/1/94	2002	8 years
3.	Ashok Kumar	25/5/94	2002	7 years
4.	Srivrat Kumar	27/3/95	2002	7 years
5.	Dev Kumar	27/3/95	2002	7 years
6.	Vimal Singh	25/5/95	2002	7 years
7.	Azad Singh	28/2/96	2002	6 years
8.	Jitender Kumar	6/6/96	2002	6 years
9.	Jai Chand	17/6/96	2002	6 years
10.	Amar Singh	17/6/96	2002	6 years
11.	Rakesh Kumar	9/9/96	2002	6 years
12.	Chedi Lal	3/3/97	2002	5 years

3. Thus after rendered service ranging between 5 years to 8 years, applicant claim that they are entitled for regularisation of service as they have completed more

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than 3 years service as per the judgment of Hon'ble Supreme Court in case of Piara Singh. It is also further stated that some juniors who are appointed later have also been regularised, so applicant also had a right to be regularised.

4. Respondents are contesting the OA. Respondents in their reply pleaded that the applicants had been engaged only for a term of 89 days which have been extended from time to time as a casual labour. It is also stated that the applicants are engaged for carrying out seasonal or intermittent nature of work for which no regular post can be created as per DOPT OM dated 7.6.88. However, respondents admit that applicants can make a complaint if junior casual labour has been regularised but no instance has been shown by the applicant. As such, no discrimination has been alleged.

5. Respondents further pleaded that since there are no vacancies, so applicant cannot be regularised. Applicants filed a rejoinder wherein it is submitted that some persons have been regularised by Resp. No.2.

6. In reply to this learned counsel for the applicant submitted that the vacancies are still available that is why the department itself had been writing to their headquarters where it is mentioned that 13 casual labours have rendered more than 206 days service in a year and have been working as casual labourer for the last 3 years or more in the office. It is also stated that casual labourers who are junior to



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applicant in other DAD offices have been regularised. Due to this reason the affected casual labourers of this office are feeling embarrassment and dissatisfaction.

7. Keeping in view the same, department has requested the Dy. CGDA (Admn.) to look into the matter personally and accord sanction for engagement of 25 more casual labourer as a special case for the office of JCDA (AF) to carry out the smooth and efficient functioning. Thus, the department have been writing time and again for regularisation of their services also.

8. I have heard the learned counsel for the parties and gone through the record. It is not disputed that these applicants are working in the office of respondents as a casual worker for last 5 to 8 years. Applicant No.1 had been engaged on 25.1.94 whereas other applicants have been engaged subsequently but no applicant has worked less than 5 years at the time of filing of the OA. It is also not disputed that the office where the applicants are working had been writing to Headquarters for sanctioning more casual labours and for regularisation of the services but the department had not responded favourably.

9. Counsel for respondents submitted that since there is a ban for recruitment, so these persons cannot be regularised and moreover no junior to the applicant have been regularised. So these applicants cannot be regularised. Respondents particularly referred to OM dated 23.10.2000 issued by Ministry of Finance to show that there is a ban on direct recruitment. Counsel for

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applicant on the other hand has shown a letter dated 14.8.97 whereby 6 persons have been regularised and out of which 2 persons are junior to applicants No. 1 & 2 in the OA who are senior inter se amongst the applicants. To this respondents had given an explanation that since these persons are working in different offices so as per their unit seniority they had been regularised whereas these applicants are working in different offices.

10. I have considered the rival contentions and given my anxious thought. As far the regularisation of 2 persons who were junior to the applicants, namely, Sunil Kumar and Vijay Pal Singh who were engaged in 1994 whereas persons who were regularised were engaged in the year 1997, It is immaterial if they are working under different offices but all the offices are under the control of the same respondents and that is why vide letter Annexure-A dated 14.2.2001 the officer concerned had written a letter to Jt.CGDA (Admn.) that the casual labourer working in the office of the Controller of Defence Accounts (Air Force) are feeling embarrassed since their counterparts who are junior to them have been regularised. So it is within the knowledge of the respondents that certain persons who were junior have been regularised whereas the 2 applicants in the OA who were senior had not been regularised.

11. So we find that this OA can be allowed to the extent that whatever vacancies in Group 'D' became available with the respondents, the respondents shall see to it. These applicants are regularised in accordance with the rules and instructions on the subject and


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particularly the 2 applicants, namely, Sunil Kumar and Vijay Pal Singh whose juniors have been regularised. The applicants should also be regularised from the date their juniors have been regularised. Thus, we find that the OA has sufficient merits and the same has to be allowed.

12. Accordingly, I allow the OA with the following directions:-

a) That Sh. Sunil Kumar and Sh. Vijay Pal Singh, whose juniors have been regularised by the respondents, should be considered for being regularised within a period of 2 months from the date of receipt of a copy of this order.

b) The remaining applicants who have worked for more than 5 years be also regularised whenever the next vacancies become available.


(KULDIP SINGH)
Member (J)

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