

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.3189 OF 2002

New Delhi, this the 12th day of March, 2004

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

1. Shri Parmod Kumar, S/o Ram Biles
R/o 441-B-1, Mandawali Fazalpur,
Delhi-110092.
 2. Shri Manoj Kumar, S/o Shyam Singh,
R/o C-220, East Kidwai Nagar,
Delhi-110023.
 3. Shri Laxman Singh, S/o Narian Singh,
R/o A-37, Mahalaxmi Garden, Phase-II,
Khoda, Ghaziabad, U.P.
-Applicants
(By Advocate : Shri P.Chakraborty)

Versus

Union of India
Through its Secretary,
To the Ministry of Consumer Affairs,
Food & Public Distribution,
Deptt. of Consumer Affairs,
Govt. of India, Krishi Bhawan,
New Delhi-110001.

.....Respondent
(By Advocate : Shri J.B. Mudgil)

O R D E R

This Original Application under Section 19 of the Administrative Tribunals Act, 1985 has been filed seeking reinstatement of the applicants as Peons and regularisation of their services against the vacant posts of Peon in the respondent department. The applicants have also sought a direction to quash and set aside the advertisement issued by the respondents inviting application for filling up the posts of six Peons.

2. The applicants were engaged on daily wages with effect from the dates shown against their names as follows:-

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| 1. | Shri Parmod Kumar | 5.12.2001 |
| 2. | Shri Manoj Kumar | 11.6.2001 |
| 3. | Shri Laxman Singh | 5.6.2001 |

3. It is claimed that the applicant No.2 Shri Manoj Kumar completed one year and three months continuous service and other two applicants have completed more than 240 days of continuous service. It is also stated by the applicants that all of them were registered with Employment Exchange. The applicants are aggrieved by their dis-engagement with effect from the date shown against them as follows:-

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|----|-------------------|------------|
| 1. | Shri Pramod Kumar | 09.08.2002 |
| 2. | Shri Manoj Kumar | 29.08.2002 |
| 3. | Shri Laxman Singh | 29.08.2002 |

4. The main grievance of the applicants is that in spite of their satisfactory service, they have been dis-engaged and in their places others have been taken as daily wage workers. Therefore, they are seriously prejudiced.

5. The respondents have filed a reply wherein it has been stated that none of the applicants have completed requisite number of days of service for being accorded temporary status. The services rendered by the applicants is of less than 240 days. As Shri Pramod Kumar has served for 200 days, Shri

Amrinder Singh

Manoj Kumar - 204 days and Shri Laxman Singh - 193 days. The respondents have admitted that one of the applicants Shri Manoj Kumar was engaged on daily wages by the National Test House Laboratory, Ghaziabad, a field unit under the Department of Consumer Affairs, immediately after his services were discontinued in the Department of Consumer Affairs. The respondents have stated that they have advertised one vacancy in the Employment News dated 15.6.2002. However, the respondents have stated that "due to exigencies of Government work, this department has engaged other daily wagers since the services of the applicants were discontinued." In response to the directions of this Tribunal as per order dated 18.9.2003, the respondents have filed additional affidavit wherein it has been submitted that application received in response to advertisement dated 15.6.2002 and also recommended by the local Employment Exchange were scrutinized and short listed candidates including the applicants were called for interview. At the time of hearing, learned counsel stated that the cases of the applicants were considered against six posts of Group 'D' employees. But none of them were selected.

6. In the rejoinder filed, the applicants have stated that the applicants have completed requisite number of days for being granted temporary status as per their calculation.

7. After hearing the learned counsel of the

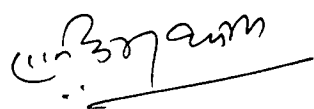
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applicants as well as respondents' learned counsel, it is noticed that the procedure adopted by the respondents is apparently not in conformity with the principles of natural justice. If the applicants were appointed on daily wage basis and their services were found satisfactory, the action of the respondents in dis-engaging them and taking fresh daily wagers to get the work done by such freshers cannot be said to be justifiable.

8. In the circumstances, the respondents are directed to engage the applicants for any work of casual nature, if they require such daily wagers in future. These persons should be engaged on preferential basis in view of the fact that they have already rendered satisfactory services with the respondents. So far as the case of Manoj Kumar is concerned, he may take up the matter with the respondents separately as his case is distinguishable. In case, he is aggrieved by the decision of the respondents, he may be at liberty to agitate the same in accordance with law.

9. In view of what is stated in the preceding paragraphs, this Original Application is disposed of without any order as to costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

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