CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

1) O.A. NO.824/2002
2) O.A. NO.825/2002

This the 3rd day of July, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

1) O.A. NO.824/2002

1. Smt. Urmil W/O Ramesh,
R/O 34/298, Trilokpuri, Delhi-91.

2. Kuldeep Singh S/O Chhanan,
R/O C-13, J.J.Colony,
Madipur, Delhi-63. ... Applicants

(By Shri M.K.Gaur, Advocate)

-versus-

1. Union of India through
Director General, Directorate General of
Vigilance, Custom & Central Excise,
IInd Floor, C.R.Building,
I.P.Estate, New Delhi. ... Respondent

(By Shri R.N.Singh for Shri R.V.Sinha, Advocate)

2) O.A. NO.825/2002

1. Umesh Chand S/O Ram Dhani,
C-41/322 Janta Camp Rly. Nursery,
Pragati Madan, Gali No.1,
New Delhi.

2. Sunil Kumar S/O Balbir Singh,
S-623, Nehru Enclave, Shakarpur, Delhi.

3. Smt. Sita Devi W/O Ram Prasad,
9/322, Lalita Park, Gali No.9,
Laxmi Nagar, Delhi.

4. Rakesh S/O Sri Ram,
50, Dhobi Ghat No.28,
Mahabat Khan Road,
New Delhi. ... Applicants

(By Shri M.K.Gaur, Advocate)

-versus-

1. Union of India through Director General,
Directorate General of Inspection,
Customs & Central Excise, Vth Floor,
Drum Shape Building, I.P.Estate,
New Delhi. ... Respondent

(By Shri R.N.Singh for Shri R.V.Sinha, Advocate)

ORDER (ORAL)

The issues involved in these OAs being identical, they are being considered and disposed of by this common order.

2. Applicants in OA No.824/2002 were granted temporary status on 3.2.1995 and 27.1.1995 respectively. They were peing paid off as Group 'D' employees for all days including all holidays and closed days, i.e., Saturdays and Sundays etc. upto January, 2002. It is alleged that payment of weekly paid off and other holidays has been suddenly stopped by respondents from February, 2002 without any reason/notice which is arbitrary, violative of Articles 14 and 16 of the Constitution and against principles of natural justice.

3. Applicants in OA No.825/2002 were granted temporary status on 11.4.1996, 3.1.1998, 22.2.1997 and 16.12.1997 respectively. Whereas they too were being paid off as Group 'D' employees for all days upto January, 2002, payment of weekly paid off and other holidays was suddenly stopped in their cases too from February, 2002.

4. The learned counsel of applicants relied on **Nathu Singh & Ors.** v. **Union of India & Ors.**, A.T.Full Bench Judgments (1997-2001) 318, decided on 11.9.2001 by C.A.T., Principal Bench, New Delhi.

5. Learned counsel of respondents stated that applicants were being paid their pay and wages as per extant rules on the subject. The payment of their dues are subject to audit clearance by the audit officers who are experts in the matter of finance and accounts. The audit detected the mistake that applicants were being paid wages for all days including holidays and closed days against the instructions and as such, such payment was stopped and recovery of excess amounts wrongly paid was ordered to be made. The learned counsel drew my attention to Annexure-R colly. relating to Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993, which came into existence w.e.f. 1.9.1993. As per paragraph 5 of this Scheme temporary status entitles casual labourer to the following benefits:

> "(i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including DA, HRA and CCA. Special Compensatory Allowance of Compensatory (City) Allowance or Composite Hill Compensatory Allowance, etc., i.e., only one of the compensatory allowance, more beneficial to them, can be taken into account for the purpose of calculating their wages. - O.M. No.3(2)/95-E.II(B), dated the 15th January, 1996."

Further that "No benefits other than those specified above will be admissible to casual labourers with temporary status." The learned counsel further referred to clarification issued by the DOP&T vide OM dated 12.7.1994 (Annexure-R colly.) on grant of temporary status and regularization of casual workers. It states,

(9)

"Since the facility of paid weekly off is admissible after 6 days of continuous work, this would not be admissible to casual employees working for 5 days in a week."

6. It is an admitted fact that respondents have a five-day week in their establishment and as such facility of paid weekly off is not admissible to casual employees working with them. As regards other holidays, applicants have not shown any instructions entitling them for payment for other holidays on grant of temporary status. The fact that applicants were being paid for holidays and closed days prior to February, 2002 does not entitle them to any payment for holidays and closed days against existing instructions (Annreure-R colly.).

7. The case of **Nathu Singh** (supra) is distinguishable from the instant case. In that case, applicants were held entitled to count increments earned by them as temporary status casual mazdoors while fixing their pay on regularization as Group 'D' employees. Stoppage of annual increments and effecting recovery was found to be unjustified. In the instant case payment of weekly paid off and other holidays was stopped as such payment was against instructions on the subject. In this backdrop, whereas I do not find any infirmity in respondents' action for stopping payment of applicant's wages for holidays including closed days from February, 2002, it would be in the interest of justice not to effect any recovery from applicants for payments already

made to them regarding holidays including closed days prior to February, 2002. Ordered accordingly.

8. The OA is disposed of in the above terms. No costs.

(V. K. Majotra)
Member (A)

/as/

Court Officer
Central Administrative Tribunal
Principal Bench, New Delhi
Faridkot House,
Copernicus Marg
New Delhi-110001