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Central Administrative Tribunal, Principal Bench

Original Application No. 2177 of 2002

M.A. No. 1787/2002

New Delhi, this the 19th day of August, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. S.A.T. Rizvi, Member (A)

1. Anand Kumar
R/o CA/14A, Janta Flats,
Hari Nagar, New Delhi-64
2. Bachha Mehto
R/o 29^b, Pocket 8, J.J. Colony
Narela, New Delhi
3. Noor Ali Khan
R/o 288, Chandan Hulli Opp.
Primary School, P.O. Fateh Pur
Beri, New Delhi-30
4. Asha Ram
R/o J-320, Sewa Nagar
New Delhi-3
5. Ram Kishan
R/o Village Eusaliya, Post
Shankar Pati Kholi, Distt. Kashi Nagar,
Uttar Pradesh
6. Smt. Bhagya Lakshmi
B-22, Bhagya Vihar, Mubarakpur
Nangloi, New Delhi
7. Rakesh Pandey
R/o D-44, Bhagya Vihar Colony
Ranikhera, New Delhi-81
8. Balasubramaniamy
R/o D-II/224, Vinay Marg,
Chanakya Puri, New Delhi
9. Rajkumar - I
R/o Village Hirmajra, P.O. Ganor
Distt. Sonepat, Haryana
10. Gopal
R/o E-22, P.V.R. Hostel
Lodhi Road, New Delhi-3
11. Jaiveer
R/o Village Sonpura, Post Dhom
Gautambudh Nagar, Noida (U.P.).
12. Raju
R/o E-1/134, Madangir
New Delhi-62
13. Jaswant
R/o PO & Vill. Kunwarpur
Distt. Bulandshahar (U.P.)

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14. Subhash
R/o Village Pillanji
H.No.2028, Kotla Mubarakpur,
New Delhi-3

15. Godhan Singh
R/o G-420, Phase-I, Pocket-II
Mayur Vihar, New Delhi

16. Vinod Kumar
R/o D-II/117, Sonia Vihar,
Delhi-94

17. Rajesh
R/o Village Pillanji
H.No.2028, Kotla Mubarakpur,
New Delhi-3

18. Puran Singh
R/o RZ-13K, Kailashpuri
Palam Colony
New Delhi-45

19. Ravinder Kumar
R/o Village Sonpura, Post Dhom
Gautambudh Nagar, Noida (U.P.).

20. Jai Prakash Gupta
R/o Matundh, Distt. Bandha (U.P.)

21. Rajkumar - II
R/o K-237, Mangolpur
New Delhi-83

22. Ranbir Singh
R/o Vill. & P.O. Ferojpur Kalan, P.O.
Fatehpur Teg, Distt. Faridabad-
Vallabhbagh, Haryana

23. Bhuwan Chandra Singh
R/o 41, (Type-I), Kamla Nehru Nagar,
Ghaziabad (U.P.).

24. Rajkumar - III
R/o Village Pillanji
H.No.2028, Kotla Mubarakpur,
New Delhi-3

25. Rakesh Kumar,
R/o 68, DLZ Area, Type-II, Sector-II
Bangla Sahib Marg, Gole Market,
New Delhi

26. Satyender
R/o Village Pillanji
H.No.2028, Kotla Mubarakpur,
New Delhi-3

.... Applicants

(By Advocate: Mrs. Raman Oberoi)

DR

Versus

1. Union of India
Through Secretary, DOPT
North Block,
New Delhi

2. Director,
Central Bureau of Investigation,
Block No.3, CGO Complex,
Lodhi Road, New Delhi-3

.... Respondents

ORDER(ORAL)

By Mr. S.A.T. Rizvi, Member(A)

M.A.1787/2002 for joining together in a single
OA, is allowed.

2. 26 applicants engaged as casual labour in the office of respondent no.2 have been working as such from 1993 onwards in 10 cases, from 1994 onwards, in 12 cases and from 1995 onwards in the remaining 4 cases. They pray for a direction to the respondents to frame a suitable scheme for granting them temporary status and to absorb them in Group 'D' posts. For this purpose, the applicants place reliance on the following observations made by the Supreme Court in their decision taken in SLP (Civil) No.2224/2000 in the case of Union of India & anr. vs. Mohan Pal etc. etc.

"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."

A further prayer made is for the grant of temporary status as a special dispensation pending formulation and implementation of the scheme.

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3. It would appear that the DOP&T had formulated a scheme on 10.9.93 whereunder casual workers engaged from time to time, were considered for grant of temporary status as well as for regularisation in Group 'D' posts, subject to fulfilment of certain conditions. The aforesaid scheme was treated as an on-going scheme by this Tribunal in various judgments delivered during the past few years. The DOP&T took the matter before the Supreme Court in the aforesaid SLP which was decided on 29.4.2002 (Annexure A-2). The court held that under the aforesaid scheme, only those casual labours could be considered for grant of temporary status and subsequently for regularisation as were in employment on 1.9.93 and had rendered a continuous service of at least one year. The court further ruled that those casual labour who had already been granted temporary status on whatever basis will continue to enjoy that status. Such temporary status conferred casual labour were not to be removed merely on the whims and fancies of the employer. Subject to sufficient work being available necessitating employment of casual labour, the temporary status conferred casual labourers shall not be removed from service. In pursuance of the aforesaid decision of the apex court, the DOP&T have issued an office memorandum on 6.6.2002 (Annexure A-1) which lays down the aforesaid principles for observance by the departments/ministries of the Government.

4. The applicants in the present OA have no doubt been working for several years but barring 3, none of them was in employment as on 1.9.93. Those who were in

employment as on 1.9.93, had admittedly not completed 240 days of working in a year. In the circumstances, according to the aforesaid O.M. dated 6.6.2002 (Annexure A-1), none of them can be considered for conferment of temporary status and accordingly, none of them can be considered for regularisation in accordance with the Scheme of the DOP&T.

5. The applicants' case is that since there is plenty of work available in the office of respondent no.2, a recommendation had been made by the aforesaid respondent no.1 for grant of one time relaxation in favour of the applicants to enable them to acquire temporary status. Respondent no.1, however, deferred a decision in the matter and awaited the judgement of the Supreme Court in the aforesaid SLP, which finally came as on 29.4.2002. The present applicants however continued to work as casual labourers as there was need for them in the office of respondent no.2. The learned counsel appearing on behalf of the applicants submits that a kind of work study had been conducted in the office of respondent no.2 which confirmed the need for 50 additional posts in Group 'D'.

6. We have considered the submissions made by the learned counsel and find that since applicants are in any case still working in the office of respondent no.2, there is no ground for interference by this Tribunal. The matter has been decided by the Supreme Court and in pursuance of the judgement of that court, the DOP&T have issued an office memorandum on 6.6.2002 (Annexure A-1). The directions contained in the aforesaid O.M. will have to be

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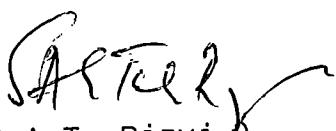
complied with by the departments but this does not mean that the services of casual workers will be dispensed with all at once. The individual departments are expected to make their own assessment about the requirement of casual workers and to decide the matter accordingly. The same will apply to respondent no.2 who has, inspite of the aforesaid O.M. (Annexure A-1), after all retained the applicants in service. They are presumed to have retained the applicants in service on the basis of their assessment of work required to be done by casual workers. There is nothing to show that continued retention of the applicants in casual employment as hitherto is in anyway threatened.

7. Notwithstanding the aforesated position, and having regard to the submissions made by the learned counsel that enough work is available in the office of respondent no.2, we will like to observe that respondent no.2 will have due regard to the availability of work before terminating the services of any of the applicants. Respondent no.1 will no doubt make its own assessment about the need for hiring of casual workers in various departments of the Government and if found necessary, will frame another Scheme for employment of casual labourers and for conferment of temporary status etc. They may either make a fresh scheme or amend the existing scheme. We do not consider it necessary to issue any directions in this regard and would like to leave it to the respondents

J.V.

to consider the matter and take action as deemed appropriate.

8. Present OA is disposed of in the aforestated terms.


(S.A.T. Rizvi)
Member(A)


(Ashok Agarwal)
Chairman

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