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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1038/2002

This the 12th day of March, 2003

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

1. Ashok
S/o Sh. Babu Lal,
Aged about 29 years,
R/o Jhuggi,
Near National Zoological Park,
Mathura Road, New Delhi.
 2. Minter Pal Mittal
S/o Sh. Chandi,
Aged about 20 years,
R/o D-6, Zoo Quarters,
Mathura Road, New Delhi.
 3. Joginder
S/o Sh. Padhar,
Aged about 23 years,
Resident of 28/3, Sector 1,
Pushpa Vihar,
New Delhi-110017.
 4. Lili
S/o Shri Phullu,
Resident of Jhuggi,
Kali Basti,
Near Pragati Maidan,
New Delhi.
 5. Dharminder,
S/o Shri Sriram,
Aged about 24 years,
Resident of 10-T Hats,
Minto Road, New Delhi-110002.
 6. Ravinder
S/o Sh. Ranbeer Singh,
Aged about 19 years,
Resident of D-16, Zoo Quarters,
Mathura Road, New Delhi-110003.
 7. Parvesh
S/o Sh. Phool Chand,
Aged about 25 years,
Resident of Kali Mata Basti,
Longla Maachi,
Near Pragatim Maidan,
New Delhi.
- (Applicants No.1 to 3
are employed as Daily
Rated Casual Labour in
National Zoological
Park, New Delhi).

(Applicant No.2 in person)

h/m

Versus

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1. Union of India
Through the Secretary,
Ministry of Environment and Forests,
Government of India,
Paryavaran Bhavan,
C.G.O. Complex,
Lodhi Road,
New Delhi-110003.
2. The Director,
National Zoological Park,
Mathura Road,
New Delhi.

(By Advocate: Sh. A.K. Bhardwaj)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicants have filed this OA seeking the quashing of Annexure-A which is an advertisement issued by the respondents for engaging certain Malis for a period of one year on contract basis. Applicants in this OA claimed that they have been working as casual labours since long. Applicant No.1 is working since 1985, applicant No.2 is working since 1996 and similarly the other applicants are also working for quite long period with the respondents.

2. Applicants had earlier filed an OA-880/99 wherein they have claimed for grant of temporary status and had also prayed for that the respondents be not allowed to engage people on contract basis in their place. The OA was allowed with a direction to the respondents to engage the applicants on casual basis so long as there is work and they shall not be replaced by persons with lesser length of service or outsiders including contractors. Respondents are also directed to consider the applicants for grant of temporary status as and when they complete 240 days in a year and thereafter consider them for regularisation in accordance with rules and instructions on the subject.



3. Thereafter a contempt petition was filed. Counsel for applicant therein admitted that on compliance of the direction given by the court it was found that the re-engagement of the applicants has been done in accordance with the seniority list maintained by the respondents. However, temporary status was not conferred upon the applicants, since they have not completed the requisite number of working days. CP proceedings were dropped. Now applicants claim for conferment of temporary status and quashing of the advertisement issued vide Annexure-A.

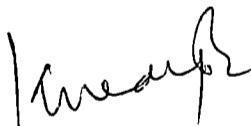
4. As regards the contention of the applicant for conferment of temporary status is concerned, the applicant in the OA relied upon the scheme of DOPT issued in 1993. As per the facts stated in the OA itself, none of the applicant had completed 206/240 days in any financial year. So none of the applicants is eligible for conferment of temporary status. Besides that I may mention that as per the judgment of the Hon'ble Apex Court in Union of India vs. Mohan Pal, the claim of conferring of temporary status is given by DOPT as a one time measure and it did not cover the employees who were engaged subsequently or those employees who have been in service from the date of the scheme. Since in this case all the employees except applicant No.1 were not working on the date of promulgation of the scheme and applicant No.1 has not completed 240 days, so none of the applicants is entitled for temporary status.

5. As far the apprehension of the applicants that they are being replaced by engaging persons through the impugned advertisement is concerned, I may mention that impugned



advertisement does not concern the casual labour, rather it concern only for engagement of Mali (Gardener) to be engaged by respondents on contract basis. Besides that respondents in their reply particularly in para 4.6 have categorically stated that they are maintaining the seniority list of casual labours in accordance with the directions given by the court earlier and there is not a single occasion where the seniority have been ignored replacing the service of applicants by junior to them or fresh recruits in their place.

6. Counsel for respondents also shows us that the applicants who were working as casual labour will not be replaced by engaging through casual labours or by engaging juniors to the applicant. Counsel for respondents further insisted that the advertisement in question has been issued to engage only Malies with which applicants have no concern as they are not performing that job. Keeping in view the same, I find that OA has no merits and the same is dismissed. Accordingly, I dismiss the OA and respondents shall abide by the ^{irr} statement in para 4.6 and shall also follow the judgment given in OA-880/99.


(KULDIP SINGH)
Member (J)

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