

Original Application No. 1161 of 2002

New Delhi, this the 17th day of December, 2003.

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

HON'BLE MR. S.K. NAIK, MEMBER (A)

1. All India CPWD (MRM)  
Karamchari Sangathan (Regd.)  
through its President  
Shri Satish Kumar  
4823, Balbir Nagar Extension  
Gali No.-13, Shahdara,  
Delhi-110032.
2. Suresh Kumar S/o Shri Ram Kumar
3. Krishan Bahadur S/o Shri Jang Bahadur
4. Prakash Chand S/o Shri Surendra Dutt
5. Madan Lal S/o Mool Chand Gujjer
6. Mehar Singh S/o Shri Bhagwat Singh
7. Subhash Chand S/o Shri Tora Ram
8. Sushma Devi D/o Lt. Mahavir Pt.
9. Rajinder Kumar S/o Shri Muttu Tanwar
10. Sunil Kumar S/o Shri Ram Avtar
11. Surender Singh S/o Shri Sukhdev Singh
12. Raghuvir Singh S/o Lt. Mangat Ram
13. Poolwati W/o Lt. Vijay
14. Omvati W/o Lt. Horem Singh
15. Kant Lal Yadav S/o Shri Ram Lachan
16. Dinesh Singh Negi S/o Shri Gulab Singh Negi
17. Devi Das S/o Shri Itwari Lal
18. Mukhinder Singh S/o Chanchal Singh
19. Mohinder Pal Singh S/o Gabbar Singh Rawat
20. Manik Roy S/o Mritunjai Roy
21. Manoj Koche S/o Ramdas Koche
22. Kesav More S/o Ghonduji More
23. Rajesh Wadghare S/o Sadashiv Wadghare
24. Panjab Bawane S/o Kothi Ram Bawane..Applicants

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Applicants No.2 to 25 all are  
C/o All India CPWD (MRM) Karamchari  
Sangathan (Regd.) 4823, Balbir Nagar Extension  
Gali No.13, Shahdara,  
Delhi-110 032.

By Advocate: Ms. Shilpa Chauhan, proxy counsel  
for Shri Naresh Kaushik, Counsel.

Versus

1. Union of India  
through its Secretary,  
Ministry of Urban Affairs  
and Employment,  
Nirman Bhavan,  
New Delhi-110 011.

2. The Director General (Works)  
C.P.W.D., Nirman Bhavan,  
New Delhi-110 011.

3. The Superintending Engineer,  
Civil Co-ordination, CPWD,  
R.K. Puram,  
New Delhi.

4. The Superintending Engineer,  
Electrical Co-ordination,  
R.K. Puram,  
New Delhi.

.. Respondents

By Advocate: Sh. Neeraj Goyal, proxy counsel  
for Shri Adish C. Aggarwal, Counsel.

ORDER

By Hon'ble Mr. Kuldip Singh, Member (Judl)

This OA has been filed by All India CPWD  
Karamchari Sangathan through its President Shri Satish  
Kumar along with 24 other applicants seeking  
regularisation of services of the applicant Nos. 2 to 25  
on their respective working posts from the date when they  
had become eligible.

2. The facts in brief are that the applicant No.  
1 claims duly registered association and applicant Nos.  
2 to 25 are stated to be its members. It is further  
submitted that the applicant members were employed by the  
respondents in the categories of Muster Roll/Hand

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Receipt/Work Order as daily wages employees between 1986 to 1994 and they had been discharging their duties in their respective categories continuously since their initial dates of appointments, without any break.

3. It is further submitted that recruitment and regularisation of the services of the applicant members are regulated and controlled by Government orders and statutory instructions issued from time to time and provisions of CPWD Manual Part III which in this regard provides in substance that the workers on Muster Roll/Hand receipt etc. should be employed only for the short durations and they should be considered against direct recruitment.

4. It is further submitted that those workers who have continuously served for more than 240 days in two consecutive years should be regularised.

5. It is further submitted that in the year 1967 it was instructed that the Muster Roll/Hand Receipt etc. employees should be given status of work charged employees whose service are required for more than one year by obtaining necessary permission from the competent authority.

6. It is further submitted that DOP&T had also come out with a scheme dated 10.9.1993 for grant of temporary status and as per that scheme the applicants are entitled for that scheme since they had worked during the period 1986 to 1994 but they had not been granted temporary status.

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7. It is further submitted that non-regularisation of applicants who have rendered service between 8 to 16 years is highly arbitrary and unjust resulting in gross injustice to the applicants rather it is stated that the applicants are entitled for regularisation.

8. It is further submitted that the instant case is already covered by the judgements given in OA Nos. 1550/1999, 1923/1999 and 845/2000 where similar reliefs were allowed.

9. Applicants have also relied upon various judgments of the Hon'ble Supreme Court and submitted that they are working for considerable long time so they are entitled to be regularised.

10. The respondents are contesting the OA. The respondents submitted that as far the OM dated 10.9.1993 of the DOP&T the respondents have already granted temporary status to some of the applicants who are eligible, namely, applicant Nos. 2, 6, 7, 8, 12, 13, 14 and 16.

11. It is further submitted that applicant Nos. 17, 22, 23, 24 and 25 are the persons who are engaged on work orders, i.e., on contract basis, as such the applicants cannot seek regularisation under the existing rules.

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12. It is further submitted that some of the applicants are working outside the territorial jurisdiction of this Tribunal so this Tribunal should not entertain the OA filed by the applicants.

13. It is also submitted that applicant No.20 had obtained engagement in service on the basis of the forged documents. The enquiry by the CBI and the Chief Engineer was made against him and it was decided to dispense with the service of applicant No.20. Applicant 20 had also filed civil suit as well as dispute before the Central Industrial Tribunal, Nagpur claiming for regularisation of the service so OA filed on behalf of the applicant No.20 cannot be entertained.

14. The respondents further submit that from time to time instructions were issued to the department for regularisation but now according to the latest position the Government has imposed ban on direct recruitment under all the categories. Thus respondents could not make any recruitment and when the ban will be lifted then according to the Recruitment Rules and regulations the respondents will consider the recruitment on muster roll so it is prayed that the OA be dismissed.

15. At the outset we may mention that after the filing of the counter-affidavit the applicant withdrew the OA on behalf of applicant No.20 and his name has been deleted vide order dated 15.7.2003.

16. We have heard the learned counsel for the parties and gone through the records.

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17. As regards the facts in this case are concerned, the same are not disputed except certain persons who have rendered service from different dates of appointment. The only plea taken by the respondents is that since there is a ban on recruitment so these employees cannot be regularised. However, the learned counsel for the applicants has referred to a judgment given in OA 1550/99 and also in OA 845/2000 and we find that the case of the applicants is fully covered by those two judgments. In this case also the facts show that all these applicants have been working from 1986 to 1994 and are still continuing to work. This goes undisputably to show that the applicants have been working for sufficiently long period and work is also available with the respondents so we are of the considered opinion that the OA can be disposed of with a direction to the respondents to consider applicants case for regularisation in their turn from the date vacancy becomes available and as per the Recruitment Rules and instructions on the subject. Respondents are further directed to verify the particulars given by the applicants. If any of the applicants had been working on the date with the scheme for temporary status was promulgated and they are eligible for being conferred with temporary status then the same be also conferred and thereafter their services should be regularised whenever regular vacancy becomes available.

18. OA stands disposed of with the above directions. No costs.

  
(S.K. NAIK)  
MEMBER (A)

  
(KULDIP SINGH)  
MEMBER (J)