

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

DA 892/2002

(3)

New Delhi, this the 03rd day of May, 2002

Hon'ble Shri Govindan S. Tampi, Member (A)

1. Mool Chand
S/o Shri Gokul Chand
Casual Labour
Air Force Station, Dadri
Ghaziabad.

R/o Village Dhook Manikpur
Distt. Ghaziabad.

2. Omi Chand
S/o Shri Gokul Chand
Casual Labour
Air Force Station, Dadri
Ghaziabad.

R/o Vill. Dhook Manikpur
Distt. Ghaziabad

3. Radhe Shyam
S/o Shri Vasudeva
Casual Labour
Air Force Station, Dadri
Ghaziabad
R/o Vill. Dhook Manikpur
Distt. Ghaziabad.

...Applicants

(By Advocate Shri K.N.R.Pillai)

V E R S U S

The Commanding Officer
Air Force Station, Dadri
Ghaziabad (Now G.B.Nagar).

...Respondent

(By Advocate Shri R.P.Aggarwal)

O R D E R

By Hon'ble Shri Govindan S. Tampi,

Reliefs sought for by the applicants in this DA (Shri Mool Chand & Ors.) is the issuance of directions to the respondents for continuing the applicant in service in preference to juniors and freshers including contract employees.

2. Heard S/Shri K.N.R.Pillai and
R.P.Aggarwal, ld. counsel for the applicant and the

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respondents respectively.

3. The applicant who had been working as casual labour with the respondents from January 1992, had filed OA No. 2363/97 along with four others, claiming grant of temporary status, though he was discharged on 26-5-97. The Tribunal vide order dated 1-9-98 allowed them the grant of temporary status w.e.f. the date they became due. The respondents' CWP No. 485/99 against the Tribunal's decision is still pending decision before the Hon'ble High Court of Delhi. In the meanwhile, the respondents are attempting to dis-engage the services of all casual labourers through termination notices dated 5-2-2002. Being thrown out of the job after so many years would cost immense hardships to the applicant. Hence this OA.

4. In the reply filed on behalf of the respondents, it is indicated that Station Commandants/Officer Commanding are responsible for ensuring proper cleanliness and sanitary conditions in the areas under their control and for internal conservancy services. Sweepers have been provided in all the Units. At the same time, no provision has been made for staff for external conservancy services, for which contractors are engaged. The Station Commandant was also expected to make arrangements for external conservancy services with the concerned cantonment Board or the Municipal Committee. The applicant was working as a casual labourer for conservancy service from 1-4-2001 to 31-3-2002 as

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casual labourer. This was done only as no contractor was available and would not be entrusted to local bodies. Subsequently in January 2002, it has been decided as a policy matter to award external conservancy contract to local body/private contractor and the contract has been awarded to M/s Advance Service (P) Ltd. on 5-3-2002, for the period 1-4-2002 to 31-3-2003. Since the entire work has been transferred to private contractor, the applicant's services had been terminated w.e.f. 1-4-2002, following a notice of 28-2-2002. Shri Aggarwal, ld. counsel for the respondents points out that when no work is available, the question of engaging the applicant does not arise. The earlier directions of the Tribunal in OA 2363/97 has been to engage the applicant when the work was available in preference to juniors and freshers and the same had been done at the time. Now that the external conservancy work has been transferred to private agency on contract basis, as a policy matter, the respondents cannot be directed to engage the applicant any longer.

5. In the rejoinder, filed on behalf of the applicant, it is pointed out that the pleas raised by the respondents are not correct and that the applicants were infact performing normal duties of group 'D' in the office and such work are still available and, therefore, it could not be stated that they cannot be engaged. During the oral submissions, Shri Pillai also stated that the respondents were bringing in documents which has not been supplied to him and thus denying him the benefit of their examination.

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6. I have carefully considered the matter. The applicants are seeking their continued engagement with the respondents on the ground that there is adequate work of the type which they were performing earlier and having been granted temporary status earlier, their services could not have been dis-engaged. On the other hand, the respondents state that the external conservancy work which the applicants were performing earlier having been transferred to private contractor, the applicants' request cannot be entertained. On examination of the issue, I cannot find fault with the steps taken by the respondents in this connection. When it has been decided as a policy matter that the conservancy work which has been done by those who were engaged as casual labour earlier, be handed over to private contractors and the same has been done, the Tribunal cannot issue directions that the same be reversed and the applicant be continued in the said job. Unless and until, the applicant is able to prove that the job which he has been performing, did not at all relate to conservancy works, he cannot have any claim for continuation.

7. In the above view of the matter, I am convinced that the applicants have not made out any case for continuation. The ^{case} ~~case~~, therefore, fails and is accordingly dismissed. At the same time, I direct that if the applicants are able to prove that the job which was performed by ~~him~~ ^{him} was not a conservancy job.

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but one in office, performed by a group D staff, ^{key}
case for re-engagement may be considered in preference
to outsiders and freshers. No costs.

(GOVINDAN S. TAMPI)
MEMBER (A)

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