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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1556/2001
MA No.1324/2001

New Delhi, this the 1st day of February 2001

HON'BLE MR. M.P.SINGH, MEMBER (A)

- 1.. Smt. Chandrawati W/o Shri Man Singh,
R/o 174/2, Lampur, Delhi.
- 2.. Smt. Shakuntla W/o Shri Mohan Singh,
R/o EE-2381, Jhangir Puri, New Delhi.
- 3.. Smt. Geeta W/o Shri Jagdish Singh,
R/o 1916, Mohammadpur, Narela, Delhi.
- 4.. Ram Darsan S/o Shri Dara Singh,
R/o R-52, Swantarta Nagar, Narela, Delhi.
- 5.. Ravinder Kumar S/o Kishan Lal,
R/o 277, Lampur, Delhi.

... Applicants

(By Advocate: Shri Yogesh Sharma)

V E R S U S

- 1.. Govt. of NCT of Delhi through
The Chief Secretary,
Old Sectt., Delhi.
- 2.. The Director,
Directorate of Social Welfare,
I, Canning Lane, K.G. Marg,
New Delhi-I.
- 3.. Sr.Suptd. (Admn.),
Directorate of Social Welfare,
G.L.N.S. Complex, Delhi Gate,
New Delhi.

... Respondents

(By Advocate: Mrs. Sumedha Sharma)

O R D E R (ORAL)

MA No.1324/2001 for joining together is allowed.

2. Applicants by filing this OA under Section 19 of the Administrative Tribunals Act, 1985, are seeking the following reliefs:-

 (i)

That the OA of the applicant may be allowed with the costs of litigation.

- (ii) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to consider the applicants for their regularisation in any institution of the Social Welfare department on the basis of amending recruitment Rules for Group D employees after preparing the seniority list of daily wage/part time like applicants.
- (iii) That the Hon'ble Tribunal may further graciously be pleased to pass an order, directing the respondents to consider the case of the applicants for grant of temporary status as per C/L Scheme after treating the applicants as full time workers as granted in the case of Pardeep Kumar Vs NCT of Delhi.
- (iv) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicants."

3. Brief facts of the case are that the applicants were appointed as Part-time Sweepers in the Social Welfare Department under the Respondent No.2 and 3 and their dates of appointment are as under:-

1.	Smt. Chandrawati	12.7.84	Beggar Homee-I, Lampur.
2.	Smt. Shakuntla	15.7.94	Begg'ar Home-II, Lampur.
3.	Smt. Geeta	15.7.94	-do-
4.	Sh.Ram Darsan	1.5.96	-do-
5.	Sh.Ravinder Kumar	1.3.95	Beggar Home-I, Lampur.

4. According to the applicants, they are performing the duties for more than eight hours daily and the work of Safaiwala/Sweeper is of permanent nature. However, the respondents have treated the applicants as part-time workers only for the reason that they had sanctioned the part-time regular posts. The amended Recruitment Rules for the post of Group 'D' were circulated by the Delhi Administration vide notification dated 9.9.1985. According to these Recruitment Rules, 50% posts are to be filled by direct recruitment and remaining 50% posts are to be filled by part-time employees, who have served as a

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part-time workers for a total period of 5 years. It is further stated by the applicants that they are performing their duties for more than eight hours daily and, therefore, they should be treated as full time workers and granted temporary status on the basis of Govt. of India's notification dated 10.9.1993. Since the respondents have not regularised the services of the applicant, they have filed the present OA seeking the aforesaid reliefs.

5. The respondents in their reply have stated that the applicants have been working as part-time Sweepers against the sanctioned posts of part-time Sweeper at their own request. It is also stated by the respondents that the applicants are not performing the duties for eight hours daily. Some posts of Sweeper were declared surplus after implementing the orders of the High Power Committee and there being no vacant posts for Sweepers, the cases of the part-time Sweepers could not be considered for regularisation. Whenever, vacancies arise, their cases will be considered for regularisation after obtaining the approval of the competent authority. Since no post of sweeper is available in the department, the relief claimed by the applicants cannot be granted. In view of this, the OA is not maintainable and is liable to be dismissed.

6. Heard both the rival contesting parties and perused the records.

7. During the course of the arguments, the learned counsel for the applicants submits that the Recruitment

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Rules notified vide OM dated 9.9.1985, have been further amended vide notification dated 10.6.1987. As per the amended Recruitment Rules 50% posts are to be filled by direct recruitment and remaining 50% posts are to be filled from part-time Group 'D' employees, who have served as part-time workers in the local offices of Delhi Administration for a total period of 5 years failing which by direct recruitment. Since all the applicants have worked for more than five years, they have become eligible for regularisation. He also submits that till now no seniority list of the part-time employees has been prepared by the respondents. The respondents are required to prepare the seniority list of part-time Sweepers and thereafter as and when the vacancies are available they should be considered for regularisation in accordance with Recruitment Rules and other relevant instructions issued by the Govt. of India from time to time.

8. On the other hand, learned counsel for the respondents submits that, at present, there is no vacancy of Sweeper available in the department and, therefore, the part-time employees cannot be considered for regularisation. In fact, a number of regular persons have become surplus and, therefore, the question for regularisation of the part-time employees does not arise.

9. Admitted facts of the case are that the applicants have put in more than five years of service as part-time employees. The amended Recruitment Rules notified on 10.6.1987 provide that 50% posts are to be filled by direct recruitment and remaining 50% posts are to be

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filled from part-time Group 'D' employees, who have served as part-time worker in the local offices of Delhi Administration for a total period of 5 years failing which by direct recruitment. It is not in dispute that applicants have completed five years of service as part-time worker and thus they have become eligible for consideration for regularisation. The respondents have also admitted that the seniority list of the part-time employees has not been prepared.

10. Keeping in view of the above facts, the OA is disposed of by issuing the following directions to the respondents:-

- i) The respondents shall prepare a seniority list of the part-time employees within a period of six months; and
- ii) Thereafter as and when the vacancies become available, the case of the applicants may be considered for regularisation in accordance with the Recruitment Rules, law and other relevant instructions issued by the Govt. of India on the subject from time to time.

11. There shall be no order as to costs.


(M.P. SINGH)
MEMBER(A)

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