

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 3318/2002

WITH

OA 2146/2001

New Delhi, this the 8<sup>th</sup> day of June 2007

HON'BLE MR. L.K. JOSHI, VICE-CHAIRMAN (A)  
HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

OA 3318/2002

1. Community Polytechnic Workers Welfare Association (Regd.)  
Delhi Region, Through its President, Shri Pradeep Kumar,  
Village Rasoolpur, P.O. Ranikhera, Delhi-110081
2. Shri Anand Pal Singh,  
S/o Shri Karan Singh,  
R/o RZ-E011/24, New Roshanpur,  
Najafgarh, Delhi.
3. Shri Krishna Prasad Sharma,  
S/o Shri S.B. Sharma,  
R/o 8/15, Arya Bhatt Enclave,  
Ashok Vihar, Phase-III, Delhi-110052
4. Ms. Babita,  
D/o Shri Meer Singh,  
R/o Village & Post Office Mundka, Delhi-110081
5. Shri Sukhbir Singh Dabas,  
S/o Shri Ram Singh Dabas,  
R/o H.No.126-D, Village & PO Ranikhera,  
Delhi-110081
6. Shri Jayendra Kumar Dabas,  
S/o Shri Mahavir Singh Dabas,  
R/o 69, Madanpur Dabas, Delhi-110081
7. Mrs. Nirmala Sharma,  
W/o Shri Jagdish Sharma,  
R/o 31-A, Ashok Mohalla, Nangloi,  
Delhi-110014
8. Shri Mukesh Kumar,  
S/o Shri Hot Lal,  
R/o RZ/2970/3, Tughlakabad Extension,  
New Delhi-110083
9. Shri Rajesh Kumar,  
S/o Shri Om Prakash,

R/o S-44, Mangolpuri, New Delhi-110083

10. Shri Damodar,  
S/o Shri Nobat Ram,  
R/o G-3/6, Sundar Nagri,  
Sant Stephen Bunkar Colony,  
Shahdara, Delhi-110093
11. Shri Rakesh Chand,  
S/o Shri Bihari Lal,  
R/o Block A-3, H.No.271,  
Nand Nagri, Delhi-110093
12. Shri Satbir Singh,  
S/o Shri Jugpal,  
R/o Village & P.O. Karala, Delhi-110081
13. Shri Rajesh Kumar Lamba,  
S/o Shri Birhama,  
R/o Village & PO Qutabgarh, Delhi-110031
14. Shri Mahabir Singh,  
S/o Shri Sish Ram,  
R/o Village Panchlok,  
P.O. Loni Gila, Ghaziabad (U.P.)
15. Shri Ajit Singh,  
S/o Shri Ram Phal,  
R/o H.No.98, Village & P.O. Qutabgarh,  
Delhi-110031
16. Shri Jai Parkash,  
S/o Shri Hoshiyar Singh,  
R/o Village & PO Chandpur Dabas,  
Delhi-110081
17. Shri Satish Kumar,  
S/o Shri Saroop Singh,  
R/o Village & PO Qutabgarh,  
Delhi-110039
18. Ms. Dhan Pati  
D/o Shri Shiv Kumar,  
R/o Village Bakkar Wara,  
P.O. Mundka, Delhi-110041
19. Mrs. Raj Bala Kaushik,  
W/o Shri N.L. Kaushik,  
R/o Village & P.O. Nizampur,  
Delhi-110081
20. Mrs. Anita,  
W/o Shri Rameshwar Dayal,  
R/o Village & P.O. Punjab Khot,  
Delhi-110081

21. Shri Rameshwar Dayal,  
S/o Shri Krishan Lal,  
R/o Village & P.O. Punjab Khot,  
Delhi-110081

22. Shri Jasbir Singh  
S/o Shri Mukhtyar Singh,  
R/o Village & P.O. Karala,  
Delhi-110081

23. Mrs. Nirmala Devi,  
W/o Shri Attar Singh,  
R/o Village & P.O. Qutabgarh,  
Delhi-110039

... Applicants

(By Advocate Shri G.D. Gupta, Sr. Counsel with Shri S.K. Gupta)

VERSUS

1. Union of India  
Through the Secretary to the Govt. of India,  
Ministry of Human Resources Development,  
Shastri Bhawan, New Delhi.

2. The Director  
Directorate of Training & Technical Education,  
Government of National Capital Territory of Delhi,  
Prem Bari Bridge, Pitampura, Delhi

3. The Principal,  
Pusa Polytechnic, PUSA, New Delhi-110012

4. The Principal  
Kasturba Polytechnic for Women,  
Prembari Pull, Muni Maya Ram Marg,  
Pitampura, Delhi-110034

5. The Principal  
Arya Bhatt Polytechnic,  
Near Shakti Nagar Telephone Exchange,  
G.T. Karnal Road, Delhi-110033

... Respondents

(By Advocate Shri Om Prakash)

OA 2146/2001

1. Community Polytechnic Workers Welfare Association (Regd.)  
Delhi Region, Through its President, Shri Pradeep Kumar,  
Village Rasoolpur, P.O. Ranikhera, Delhi-110081

2. Shri Pradeep Kumar  
S/o Shri Uday Singh,  
R/o Village Rasoolpur, P.O. Ranikhera, Delhi-110081

3. Shri Kamlesh Rao Gautam,  
S/o Shri Brindavan,  
R/o T-Huts, 6, Kirti Nagar  
Industrial Area, New Delhi-110015
4. Mrs. Shashi Gupta,  
W/o Shri Narendra Gupta,  
R/o RZ-55, T-Extension,  
Uttam Nagar, New Delhi-110059
5. Shri Chander Shekhar,  
S/o Late Shri Masthura Dutt Sharma,  
R/o 18/III, I.T.I. New Campus,  
Vivek Vihar, Delhi-110095
6. Shri Ved Singh  
S/o Shri Hasri Ram,  
S/o Village Machari, P.O. Kirari,  
Distt. Sonapat (Haryana)
7. Mrs. Jaspreet Kaur,  
W/o Shri Pritam Singh,  
R/o B-40/6, Double Storey,  
Ramesh Nagar, New Delhi-110015
8. Mr. Naveen Kumar  
S/o Shri Surat Singh,  
R/o RZ-B-17/1, Vijay Enclave,  
Street No.2, Palam Road, New Delhi-110045
9. Shri Pradeep Kumar  
S/o Shri Kishan Lal,  
R/o H.No.119, J-Block,  
Jahangirpuri, Delhi-110033
10. Mrs. Anisha,  
W/o Shri Ishwar Singh,  
R/o Village & P.O. Kanjhawala, Delhi-110081
11. Mrs. Sunita,  
W/o Shri Gyan Prakash  
R/o H.No.113, Village Neelwal,  
P.O. Tikri Kalan, Delhi-110041
12. Shri Sunil Kumar  
S/o Shri Radhey Shyam,  
R/o AB-326, Amarpuri, Nabikarim, Paharganj,  
New Delhi-110055
13. Shri Suresh Kumar  
S/o Shri Chandrika  
R/o F-59, Sitapuri-II  
Gali No.2, Delhi-110045
14. Shri Uday Anand,

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S/o Shri Dev Anand  
R/o K-405-406, Jehanpuri, Delhi-110033

15. Shri Pankaj Kumar  
S/o Shri Ram Dass.  
R/o DS-210, Dashrathpuri,  
Dabri, Palam Road, New Delhi-110045

16. Shri Rajesh Kumar,  
S/o Shri Shyam Bihari.  
R/o 1506/22, Mahsudabad Colony,  
Najafgarh, New Delhi-110043

17. Shri Naresh Kumar  
S/o Shri Nafay Singh  
R/o H.No.370/7, Shalimar Village, Delhi-110088

18. Shri Rohtash Kumar,  
S/o Shri Mydhan,  
R/o H.No.54, Village Kataura.  
P.O. Kutabgarh, New Delhi-110039

19. Shri Vinod Kumar,  
S/o Shri Ganpat Ram,  
R/o 4866, Laddu Ghati, Paharganj,  
New Delhi-110055

... Applicants

(By Advocate Shri G.D. Gupta, Sr. Counsel with Shri S.K. Gupta)

## VERSUS

1. Union of India  
Through the Secretary to the Govt. of India,  
Ministry of Human Resources Development,  
Shastri Bhawan, New Delhi.
2. The Director  
Directorate of Training & Technical Education,  
Government of National Capital Territory of Delhi,  
Prem Bari Bridge, Pitampura, Delhi

... Respondents

(By Advocate Shri Om Prakash)

## ORDER

By Shri Mukesh Kumar Gupta:-

Since question of law & facts in these two OAs is common in nature, the same are being disposed of by present common order.

2. Principal relief in these two applications is to quash & set aside Para-6.7 of Scheme of Community Polytechnic, July 2001 (A-10) and also to quash the



requirement of filling a bond by applicants, besides seeking declaration to the effect that they are entitled to regularization on various posts held by them, payment of salary in regular pay scale with all consequential benefits including arrears and so on.

3. Applicant no.1 is an association of persons working under Community Polytechnic Scheme in various categories like Instructor, Clerk, Attendant, Store Keeper, Peon, Driver etc. in various Polytechnics under the Directorate of Training & Technical Education. Facts as stated are that initially aforesaid Scheme had been introduced on all India basis in the year 1979. Purpose of said Scheme has been to bring about revolution in rural areas and rural development programmes so that latest technology in various aspects is transformed to rural areas and reaches to villages. It is an all India scheme, and, to operate said Scheme recruitment had been made on various posts to carry out said Scheme. Though it is a planned Scheme and was almost on regular basis and not as temporary one. The purpose for which said Scheme was introduced is continuing one. Applicants were appointed in 1994 onwards on different dates, & all are qualified for concerned posts under the Scheme yet they have been treated as on contract employment and paid a consolidated salary despite the fact that they were neither back-door entrants nor part-time employees. Though they have rendered satisfactory services of long duration, yet they have not been regularized. Furthermore all of them were appointed pursuant to either advertisement or circular placed on notice board and further after participating in regular selection process.

4. Since independence several rural development programmes had been launched by Central as well as State Governments with main objective of raising socio-economic status of rural people but success so far was not in commensurate with efforts put in indicating that there were missing links & gaps



in rural development programmes. Missing links & gaps were identified as related to lack of application of science & technology, scientific planning & implementation, integrated approach, systematic monitoring and evolution. It was recognized that educational institutions can play vital role in rural development and polytechnics as technical institutions can provide missing links and fill the identified gaps in programme by drawing their own resources from resources available with higher technological and rural & development institutions. As such, few polytechnics were selected to cater to the need of minority concentrated areas and accordingly said Scheme of Community Polytechnic was introduced in July 2001. Prior to it guidelines were issued by Ministry of Human Resources Development from time to time. Paragraph-6.7 of aforesaid Scheme created basic hurdle and required every staff inducted under said Scheme to execute with Government an agreement to the effect that he is employed therein "on contract basis", & therefore question of regularization did not arise etc. Said Para reads as under:-

*"6.7 Every staff inducted under the Scheme should be taken purely on contract basis for which a proper contract agreement should be executed between the polytechnic and the person employed. Under the Scheme of Community Polytechnics, the question of any stake by any person for his or her regularization does not arise at all, since the scheme is purely a plan scheme of Ministry of Human Resource Development (Govt. of India). While executing an agreement this whole para should be made essential content of the agreement." (emphasis supplied)*

5. Shri G.D. Gupta, learned senior advocate laid great emphasis on the contention that applicants were appointed on various posts on the basis of open selection after said posts were duly advertised, but they are being paid on daily-wages / consolidated salary & yet not been regularized. They apprehend that their services may be terminated at any time despite their satisfactory, unblemish & outstanding performance. Aforesaid Para of Scheme is illegal, arbitrary and placed unreasonable restriction on their right to seek regularization. Despite

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representations made, no answer emanated from respondents. Any rule or instruction or term of bond containing condition that they will not claim regularization is illegal, arbitrary and violative of Articles 14 & 16 of Constitution of India. Such prohibition is neither justified nor tenable in the eyes of law as applicants, who have completed a decade of service, are entitled to be regularized even in terms of latest Constitution Bench Judgment of Hon'ble Supreme Court in ***State of Karnataka vs. Umadevi [2006 (4) SCC 1]***. They are also entitled to equal pay for equal work. They are discharging their duties on full time basis in a Scheme, which is a planned Scheme. By filing written submissions, reliance was placed on various other judgments namely ***AIR 1988 SC 519 [Delhi Municipal Karamchari Ekta Union (Regd.) vs. P.L. Singh]*** wherein earlier judgment reported in ***AIR 1987 SC 2342 [Daily Rated Casual Labour employed under P&T Department vs. Union of India]*** had been re-enforced to the effect that those, who have completed more than one year's service, were liable to be regularized. Similarly reliance was placed on ***State of Haryana vs. Piara Singh [AIR 1992 SC 2130]*** for the purpose of equal pay for equal work. Reliance was also placed on ***AIR 1982 SC 879 [Randhir Singh vs. Union of India]*** as well as ***AIR 1988 SC 1970 [Y.K. Mehta vs. Union of India]***. Emphasis was also made that a Coordinate Bench order dated 14.1.2003 in OA No.2376/2000 ***[Kashmiri Lal Ahuja vs. Govt. of NCT, Delhi & Ors.]*** is inapplicable in the facts & circumstances of present case in as much as validity of Para-6.7 of aforesaid Scheme had not been considered by this Tribunal. As applicants are working under the Scheme, which is planned Scheme of Ministry of Human Resources Development and they are not back-door entrants, & all qualified for different posts manned by them and the Scheme, being permanent / regular & continuous in nature, they are entitled to be regularized.

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6. Respondents contested the claim laid emphasizing that relevant clause of Scheme / bond preventing persons engaged under the Scheme from approaching any court of law stands deleted vide Government of NCT, Department of Training & Technical Education Order dated 08.7.2005. Furthermore rest of terms & conditions of Scheme are lawful and are intra-vires. Such norms and guidelines were already in existence prior to the year 2001. Under said Scheme, there is no provision of regular employment and the same cannot be made keeping in view the nature of training programme, which needs to be changed frequently as per need of society. As & when any particular programme in any particular locality loses importance, programme needs to be changed with alternate one and accordingly procedure for engaging different persons other than those already engaged to perform various works are again needs to be initiated afresh. Applicants were engaged purely based on contract for a period of 89 days. Such appointment is purely contractual, which is apparent from the documents placed on record. In any event applicants have no legal claim & right for regular employment under the Scheme in question. The Scheme in question is a planned Scheme and not a regular & permanent Scheme. Legality & validity of Scheme has already been upheld by this Tribunal in *Kashmiri Lal Ahuja (supra)*. Respondents have been prevented from terminating applicants' services even if they are not required. It is further denied that applicants fulfilled requisite qualifications as alleged. Shri Om Prakash, learned counsel for respondents placing strong reliance on *Umadevi (supra)* contended that no directions can be issued to regularize their services. Reliance was also placed on **2003 (5) SCC 388 [MD, LLP Land Development Corporation & Anr. vs. Amar Singh & Ors.]** to contend that employees working under a Scheme / Project have no vested right so as to claim regularization of their services with regular pay scale. When the Scheme / Project comes to an end, the services of the employees working in the project also come to an end.

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Our attention was also drawn to Coordinate Bench Judgment dated 22.9.2006 in OA No.2970/2004 [**Yogendra Prasad vs. Govt. of NCT of Delhi & Ors.**] wherein Driver in Community Polytechnic Centre and under aforesaid Scheme had been seeking direction to regularize him. Noticing aforesaid judgment in **Umadevi (supra)** this Tribunal held that there was no merit in said claim. Similarly, reliance was placed on judgment of this Tribunal in **Kashmiri Lal Ahuja (supra)** wherein vide para-28, it was observed that: "we do not see any legal infirmity in the Scheme of the Government which is intra-vires and their action of not regularizing the applicant or paying him regular wages do not suffer from any infirmity." (emphasis supplied). Learned counsel also brought to our notice that Ministry of Human Resource Development vide communication dated 07.11.2006, has withheld the grant related to Pusa Polytechnic, Pusa, New Delhi under the Scheme of Community Polytechnic until the objections raised are cleared, as certain misappropriation were noticed on audit made of the Accounts.

7. We heard learned counsel for parties, perused the pleadings besides written submissions filed by applicants as well as judgments relied upon.
8. On consideration of rival contentions raised by parties and noticed hereinabove, we observe that it is undisputed fact that question of regularization as well as payment of consolidated salary had been the subject matter in **Kashmiri Lal Ahuja (supra)** and vide para-28 of said judgment, findings were pronounced. A perusal of prayer made in present OAs when compare with reliefs prayed in aforesaid OA in **Kashmiri Lal Ahuja (supra)** would show that the same stands no more res-inegra & have already been adjudicated. Though it is no doubt true that para-6.7 of aforesaid Scheme had not been challenged in **Kashmiri Lal Ahuja (supra)** but the fact remains that said Scheme is in the nature of a policy decision of Government, which by & large is not within the purview of judicial review except on the ground that there is arbitrariness in the
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Scheme. On bestowing our thoughtful consideration to the Scheme, we are of the view that there is no illegalities or arbitrariness in the said Scheme. Moreover, major offending clause in bond stands already deleted, as noticed, vide Government of NCT communication dated 08.7.2005.

9. As far as judgments relied upon are concerned, we may note that judgment of **Piara Singh (supra)** has been specifically overlooked in **Umadevi (supra)**. Similarly, Constitution Bench in **Umadevi (supra)** has clearly ruled that concept of equal pay for equal work is different from concept of conferring permanency on those, who have been appointed on adhoc basis, temporary basis or based on no process of selection as envisaged by rules. Unless & until appointment is made in terms of relevant rules and after a proper competition among qualified persons, the same would not confer any right on appointee. Merely because a temporary employee or casual worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent merely on the strength of such contingency. When a person accepts any engagement temporary or casual in nature, he accepts such employment with open eyes. In other words, even while accepting employment, a person concerned knows the nature of employment. When a person enters into temporary employment or contractual engagement or as casual worker and engagement is not based on proper procedure as recognized by rules or procedure, he is aware of consequence of such appointment being temporary, causal or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post. Theory of legitimate expectation cannot be successfully advanced by temporary contractual or casual employees. It also cannot be held that the State has held out any promise while engaging these persons either to continue them when they are or

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