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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2297/2001

New Delhi this the 27th day of May, 2002.

HON^{BLE} MR. SHANKER RAJU, MEMBER (JUDICIAL)

1. Krishna Chaudhry,
S/o Sh. Heera Chaudhry,
R/o CPWD, FCD-I, NH-IV,
Faridabad, Haryana.

2. Rajpal Singh

3. Ramchandra

4. Sitaram

5. Santosh Kumar

6. Balbir Singh

-Applicants

(By Advocate Ms. Mamta Rani, proxy for Sh. Surat Singh,
Advocate)

-Versus-

1. Union of India through
the Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.

2. The Director General (Works),
C.P.W.D., Nirman Bhawan,
New Delhi.

3. The Executive Engineer,
CPWD, NH-4,
Faridabad, Haryana

-Respondents

(By Advocate Shri S.M. Arif)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Heard the parties. It is not disputed that all the applicants, except applicant No.2, who has been working on a Group 'C' post, have been accorded temporary status, in accordance with the Scheme of DOP&T dated 10.9.93. The claim of the applicants in this OA is for their regularisation against Group 'D' posts as per the Scheme of DOP&T of 1993. It is contended that as the applicants have been working with the respondents for the last more than 14 years and have been accorded all the benefits the

respondents are obligated to regularise their services and denial of the same is in violation of the decision of the Apex Court in State of Haryana, v. Piara Singh & Ors., JT 1992 (5) SC 179. By referring to paragraph-8 of the Scheme ibid it is contended that two out of three vacancies in Group "D" cadre are to be filled up as per the extant rules and instructions issued by DOP&T from amongst casual workers with temporary status. Further placing reliance on page 46 of the paperbook, a decision of the coordinate Bench in OA-2569/1999 - Ram Prasad Tiwari & Anr. v. Union of India & Ors., decided on 22.2.2001 it is contended that similar directions have been issued by the Tribunal to the respondents to regularise the services of the applicants therein and to assign them correct seniority. As the applicants herein are similarly circumstance, same relief cannot be denied to them.

2. On the other learned counsel appearing for the respondents contended that except applicant No.2, who has been working on a Group "C" post, other applicants have been accorded temporary status and in so far as their regularisation is concerned, the same is to be done subject to availability of vacancies and as per their respective seniority. It is stated that the decision in Ram Prasad Tiwari's case (supra) would have no application to the facts and circumstances of the present case, as therein it was established that the juniors of the applicants therein have been regularised and in this view of the matter directions have been issued to regularise them against Group "D" posts, whereas in the present case no junior of the applicants has been regularised. As such their

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regularisation is to be governed as per the Scheme of DOP&T of 1993 and their respective seniority according to their respective turn.

3. I have carefully considered the rival contentions of the parties and perused the material on record. In my considered view, even as per paragraph-8 of the aforesaid Scheme what has been envisaged is that two out of three vacancies are to go to casual labours to be regularised against Group 'D' posts, but this cannot be done without the rules and seniority and cannot be done when the vacancies are not available. Applicants have failed to establish that any of their junior has been regularised, which would have necessitated similar directions, as given in Ram Prasad Tiwari's case (supra). However, their regularisation is to be regulated in terms of DOP&T Scheme of 1993, which envisages pre condition of vacancies and due seniority.

4. In this view of the matter, the OA is disposed of with a direction to the respondents to consider regularisation of the applicants against Group 'D' posts as and when available, as per their respective seniority, strictly in accordance with the aforesaid Scheme of DOP&T of 1993. No costs.

S. Raju

(Shanker Raju)
Member (J)