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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2680/2001

New Delhi, this 20 day of March, 2002

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

1. Mohinder Kumar
149, Old Nangal, Delhi Cantt
2. Virender Kumar Manjhi
266, Chiriya Colony Pusa, New Delhi
3. Dev Pujan
D-89, Ishwar Colony
Nangli Sakarawati
Najafgarh, New Delhi
4. Ram Naresh
RZ-367/394, Shiv Puri
West Sagarpur, New Delhi
5. Ravinder Kumar
Vill. PO Posangipur
New Delhi
6. Narain Das Saini
P-10/8/1, Kabul Lane, Delhi .. Applicants

(By Shri George Paracken, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Defence
New Delhi
2. Commanding Officer, Air Force Station
25, Wing Unit
Rajokri, New Delhi .. Respondents

(By Shri K.C.D. Gangwani, Senior Advocate,
with Ms. Harvinder Oberoi, Advocate)

ORDER

In this OA filed by Shri Mohinder Kumar and five other seek the following reliefs.

To direct the respondents to:

i) consider applicants for the post of safaiwala, Laskar, cook and waiter in the permanent establishment for the relevant post in Group D cadre in preference to freshers and outsiders;

ii) not to consider any of the freshers and outsiders for appointment to the permanent estt. of Group D cadre in the office of Respondent No.2; and

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iii) continue to engage the applicants either as casual labourers with temporary status till they are appointed as a regular Group D employee with office of Respondent No.2 or in any of the various offices under Respondent No.1

2. MA No.2218/2001 for joining together allowed.

3. Applicants are anti-malaria Laskars, working with the respondents on daily wage basis, since May, 1999 with engagement for six months from May to October in a year. On the applicants seeking temporary status/regularisation by OA 2282/99, the Tribunal by its order dated 24.10.2000 directed conferment of temporary status on the applicants in terms of their scheme/DoPT Scheme, engagement as casual workers in other fields also, engagement as seasonal basis as anti-malarial laskars and prevented the engagement of freshers and juniors. In spite of the above orders the applicants' services were disengaged on 30.10.2000. Temporary status was granted to the applicants on 7.6.2001 with the order that permanent engagement was subject to regular selection. Respondents have also initiated process for fresh recruitment through sponsorship by Employment Exchange and were to take up interview while selecting candidates as Laskar/cook, safaiwala and waiter. As the applicants were casual labourers with temporary status w.e.f. 7.6.2001, their claim for regularisation straightaway cannot be overlooked. Hence the reliefs claimed by them.

4. The above pleas were forcefully reiterated by Shri George Parackken, the learned counsel for the applicants, who stated that the applicants have the first claim for regularisation/appointed to the Group D posts falling vacant in the respondents organisation and it cannot be overlooked.

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5. In the reply filed by the respondents through Smt. Harvinder Oberoi, respondents point out that as the decision of the Tribunal in OA No.2282/99 having been complied with by grant of temporary status to the applicants, nothing remained to be done on that count. Respondents, who during peace time provide assistance to civil authorities engage seasonal anti-malarial taskars (ASNL) from May to October. The applicants have been performing as such in 1999, 2000 and 2001. In terms of their scheme of 16.12.94, ^{SANLS} ~~ASNLs~~ once engaged through Employment Exchange were employed during following years as well. The second scheme of 1997 provided for grant of temporary status and regularisation in turn, through which five of the six applicants in the OA have been granted temporary status. Respondents have decided and correctly so to fill up some vacancies by sponsoring of the candidates from Employment Exchange. Applicants can also take part in the selection process with the open market candidates if otherwise eligible. Respondents have correctly acted in accordance with the Tribunal's orders in OA No.2282/99. The suitability of these SNALS for performing other jobs like cook, waiter etc. is doubtful. Respondents will engage them against the fresh vacancies if they fulfil the requisite qualification. While five of the applicants have ben granted temporary status, case of only one is doubtful. Respondents have not at all acted in any improper manner and therefore OA deserved to be rejected, pleads Smt. Oberoi. These views were forcefully reiterated by Shri K.C.D.Gangwani, learned senior counsel, who promised that the respondents

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have no objection to adjusting the applicants, against the fresh vacancies, provided they fulfill the qualification for such selection.

6. I have carefully considered the matter. The applicants who are periodically engaged SMA Laskars with temporary status, seek regularisation against the posts of Laskars/Cooks/Waiters etc. for which selection process is already on. Applicants claim that they have secured vested rights for regularisation, in view of the decision of the Tribunal in OA No.2282/99. Respondents state that their claims would be considered only if they are qualified. In the decision of the Tribunal dated 24.10.2000, respondents had been directed to consider the case of the applicants for grant of temporary status, which has already been done. Further direction for engaging them on job other than that of SAMLs also on the basis of their seniority and other relevant considerations which would mean that the respondents have been given liberty to consider the case of the applicants subject to their eligibility which would involve educational qualification also. In fact the qualification for one job will differ from that for another job - SAML on the one hand and cook/waiter etc. on the other - and it is for the respondents to determine the same. Further, the respondents also have been precluded from engaging fresh recruits as casual labourers. Therefore so long as the applicants qualify for appointment to other posts in Group D, they can be considered for such regularisation. In fact regularisation would have to be with reference to the availability of vacancies and the qualification therefor, and grant of temporary status per se would not mean

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automatic regularisation only in the same post i.e. of SANLs in turn. No further direction can be granted in the circumstances of the case.

7. In the above view of the matter, I am convinced that the applicants have not made out any case for issuance of direction to the respondents in this OA. OA being devoid of merit fails and is dismissed. No costs.

(Govindan S. Tampi)
Member (A)

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