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Central Administrative Tribunal, Principal Bench

O.A. No.2933/2001

New Delhi this ^{27th} day of September, 2002

Hon'ble Mr. Kuldip Singh, Member (J)


1. Vinod Kumar s/o Ram Chander Sahni
I-77, Krishi Kunj
IARI Pusa, New Delhi-12
2. Sunil Rai s/o Sh. Baleshwar Rai
I-63, Krishi Kunj
IARI, Pusa, New Delhi-12
3. Rampat Mahto s/o Sh. Gopi Mahto
I-67, Krishi Kunj
IARI Pusa, New Delhi-12
4. Dinesh Poddar s/o Sh. Brahmdev Poddar
I/261, Chidya Colony
IARI Pusa, New Delhi-12
5. Dilip Rai
I-84, Chidya Colony
IARI Pusa, New Delhi-12
6. Gulab Babu Mehto s/o Ram Vilas Mehto
I-67, Chidya Colony
IARI Pusa, New Delhi -12
7. Ram Ratan Singh s/o Ram Swaroop Singh
I-121, Chidya Colony
IARI Pusa, New Delhi-12
8. Kamal Singh s/o Sh. Chitra Singh
III-603, Krishi Kunj
IARI Pusa, New Delhi-12
9. Nagender Paswan s/o Ram Vilas Paswan
I-274, Chidya Colony
IARI Pusa, New Delhi-12
10. Nissar Ahmed s/o Sh. Iftekhar Ahmed
I-25, Chidya Colony
IARI Pusa, New Delhi-12
11. Vinod Poddar s/o Ram Prakash
I/227, Chidya Colony
IARI Pusa, New Delhi-12
12. Navin Kumar s/o Sh. Nand Kishore
I/27, Chidya Colony
IARI Pusa, New Delhi-12

13. Girdhari Lal s/o Sh. Sharma Thakur
I-227, Chidya Colony
IARI Pusa, New Delhi-12
14. ~~Mr~~ Inder Dev Mahto
s/o Sh. Meena Mahto
I-1708, Krishi Kunj
IARI Pusa, New Delhi-12
15. Raj Kumar Rai
s/o Sh. Brahmdev Rai
I-62, Krishi Kunj
IARI Pusa, New Delhi-12
16. Bhuvneshwar Mahto
s/o Sh. Nageshwar Mahto
I-204, IARI Pusa,
New Delhi-12
17. Vinod Kumar
s/o Shri Ramashish Kaper
B-8, NASC, Todapur Road
New Delhi-12

By Advocate: Shri S.L. Hans.

... APPLICANTS

Versus

- 
1. Union of India through Secretary,
I.C.A.R. , Krishi Bhavan,
New Delhi-1
 2. Director (Administration)
I.A.R.I., Pusa,
New Delhi-12

... RESPONDENTS

By Advocate: Shri N.S. Dalal

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ORDERBy Hon'ble Mr. Kuldip Singh, Member (Judl)

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This OA has been filed jointly by 17 persons as they are aggrieved of the fact that the respondents vide their circular No.4/7/96-P.III dated 26.9.98 had appointed Daily Paid Labour as SSG-I (Beldar/Chowkidar) in the pay scale of Rs.2550-55-2660-3200 in different Divisions. The appointees as SSG-I also include about 12 Daily Paid Labour who have completed 206 days in one year. The applicants also claim that they were initially appointed as Daily Paid Labour and subsequently re-engaged as Daily Paid Labour in order of their seniority and have since completed stipulated 240/206 days in two years, so they are entitled to be regularised. They have also submitted that being similarly placed by virtue of having completed stipulated period of service, the applicants are praying for their appointment as SSG-I in the pay scale of Rs.2550-3200 as against 150 existing vacancies as has been done vide Circulars of 1997 and 26.9.98.

2. The applicants further allege that this non-grant of regular status to the applicants while other persons who were similarly placed have been granted the regular status, is discriminatory. The respondents have thus discriminated and have acted in violation of Article 14. The applicants further pray that they have vested right for regularisation on completion of stipulated period of service as Daily Paid Labour, so they pray that they be regularised.



3. The OA is being contested by the respondents. The respondents in their reply pleaded that it was known to the applicants very well that the Daily Paid Labourers are being appointed seasonally and on need basis and as such the claim of the applicants is not maintainable in the facts of the present case.

4. The respondents further submitted that working for more than 240/206 days in a year does not give right for regularisation.

5. It is further submitted that there was a policy for regularisation and as per the policy due publication and notification was given and the persons who did not report as per the policy or the Notification/information are not entitled for the reliefs so claimed as it is being sought by the applicants.

6. It is further stated that the regularisation is subject to availability of vacancies and working for a particular number of days does not give the automatic right for regularisation. Regularisation is subject to policy, subject to availability of vacancies and other consideration including financial aspect etc.

7. It is further stated that the applicants cannot claim regularisation de hors the rules.

8. It is denied that the respondents are treating

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the equals as unequal and as such there is no arbitrariness or denial of equality before the law as claimed by the applicants nor the action on the part of the respondents is violative of Articles 14 of the Constitution of India.

9. It is further submitted that no new scheme for grant of temporary status have been formulated by the DOP&T after 1st September, 1993 and direct recruitment is totally banned by the Government of India and all the DPLs cannot be considered for the grant of temporary status and regularisation against SS Grade-I vacancy post till the new scheme by the DOP&T for grant of temporary status.

10. I have heard the learned counsel for the parties and gone through the records of the case.

11. The learned counsel appearing for the applicants submitted that the respondents admit that as per the DOP&T scheme, the same is applicable to the establishment of the respondents also though the 1993 scheme was one-time scheme but there still exists a scheme of 1988 in which the applicants could be regularised and since the vacancies are still available so the respondents should be directed to regularise the services of the applicant.

12. The applicants have also placed on record the



notification vide which some of the persons are stated to have been appointed. However, the learned counsel appearing for the respondents submitted that these persons with whom the applicants is claiming parity is altogether different. It is further submitted by the applicants that they have been discriminated and had been appointed under the policy of the department to which vide publicity was given and of those ex-DPLs who had applied were considered and only thereafter some of them have been appointed. But merely working for 240/206 days does not give the right to be regularised.

13. I have heard the learned counsel for the parties and gone through the scheme of 1988 relied upon by the learned counsel for the applicants.

14. The paragraph 10 of the scheme simply says that the regularisation of the services of the casual workers will continue to be governed by the instructions issued by the department (DOP&T). While considering this regularisation, a casual worker may be given relaxation in the upper age limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age-limit for the relevant post. So the Scheme of 1988 merely permits the department to regularise the service of casual labourer but only in accordance with the instructions issued by the DOP&T earlier, but the regularisation can always be made only if the vacancies are available and since sanction for the said post is also available and there is no ban for recruitment, so

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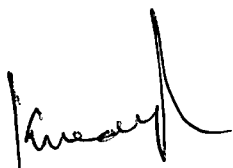


they should also be regularised.

15. In this case since the respondents have pleaded that there is a ban on recruitment and there are financial constraints with the respondents for the time being and there is no policy for regularisation, so I find that no directions can be issued to the respondents. Hence, the OA has to be dismissed.

16. No other contention has been raised before me.

17. In view of the above, nothing survives in the OA and the same is accordingly dismissed. However, I may further observe that in case the department in near future has to fill up any such vacancy in Group 'D' suitable for the applicants then their case may also be considered subject to rules and instructions on the subject. No costs.



(KULDEEP SINGH)
MEMBER (JUDL)

Rakesh