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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 2943/2001

This the 1st day of May, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

1. Harish Chand
S/o Shri Shivraj Singh
2. Ashok Kumar
S/o Shri Prem Chand
3. Uttam Paswan
S/o Sh. Jungoor Paswan
4. Phool Singh
Shri Preet Ram
5. Rishi Pal
S/o Sh. Kiran Chand
6. Anil Kumar
S/o Sh. Jai Prakash
7. Ved Prakash
S/o Sh. Fateh Chand
8. Tuk Lal
S/o Sh. Budhi Bahadur

All resident of
Plot No.01, Aram Bagh
Near Udasin Mandir
Paharganj, New Delhi-55.

...Applicants.

(By Advocate: Sh. Neeraj Shekhar)

Versus

1. Union of India
Ministry of Urban Development
Through its Secretary
2. Director General of Works,
C.P.W.D.,
Nirman Bhawan, New Delhi
3. Supdt. Engineer
Co-ordination Circle
C.P.W.D.
I.P. Bhawan, New Delhi.

...Respondents

(By Advocate: Sh. Ajesh Luthra)

ORDER (ORAL)

This is a joint OA filed by Harish Chand and others. All these applicants are working as muster-roll employees with the respondents and are seeking regularisation of their service

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with all consequential benefits and are also seeking grant of back wages for which the applicants are entitled to in view of the judgment delivered by the Apex court.

2. OA is being contested by the respondents. Respondents in their reply have pleaded that all these applicants were granted temporary status under the scheme of 10.9.93 w.e.f. 1.9.93 and all those workers except one Harish Chand are working after the ban so imposed by the DG(W) vide his order dated 19.1.85. As the ban for recruitment is existing since 1985 so because of ban these applicants could not be considered for regularisation.

3. I have heard the learned counsel for the parties and gone through the record.

4. As regards the case of applicant No.1 Harish Chand is concerned, respondents while filing their counter submitted that since Harish Chand is the only candidate who is working prior to imposition of ban but his case is twice considered for regularisation. However, the said Sh. Harish Chand did not pass the requisite trade test for being regularised so his case now cannot be considered.

5. As regards the other applicants are concerned, since they were engaged after the ban was imposed so they cannot be considered. This contention of counsel for respondents has no merits. As the ban was imposed in the year 1985 and these applicants have been engaged by the respondents after the imposition of the ban, it seems that the ban itself is quite unrealistic one as it is continuing since 1985 despite the fact that the work is available with the respondents and that is why applicants are working there. It is not a case that

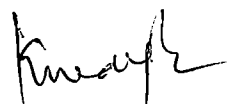
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there is a surplus staff and there was no requirement of these employees. Ban was imposed in the year 1985 has otherwise become meaningless, since the work is available with the respondents in a continuous manner.

6. Thus, I find that it is a fit case that respondents be given directions to regularise these applicants in accordance with rules and instructions for regularisation. Accordingly, OA is allowed to the extent that the respondents shall consider all other applicants for being regularised subject to availability of work. As per the case of Harish Chand, applicant No.1, is concerned, the same is dismissed.

7. As per matter with regard to allowances as claimed in the rejoinder is concerned, Sh. Luthra, appearing for the respondents submitted that matter is pending before the Hon'ble Supreme Court and whatever the decision Hon'ble Supreme Court will take that will be honoured. As far the allowances is concerned, counsel for applicant seeks permission to agitate for the same separately.

8. I am also of the view that plea with regard to allowances is not taken up in the OA. It is taken subsequently in the rejoinder that cannot be entertained at this stage. However, applicants are at liberty to take up the case of allowances separately.


(KULDIP SINGH)
Member (J)

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