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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2950/2001

New Delhi, this the 12th day of July, 2002

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

1. Sh. Suresh Chand
S/o Sh. Tej Singh
H.No.909, Gautam Puri
New Delhi - 110 044.
2. Sh. Shyam Lal
S/o Sh. Musaddi Lal
I-2-948, Gali No. 14/9
Sangam Vihar, New Delhi - 110 062.
3. Sh. Vinod Kumar
S/o Sh. Jaipal Singh
Quarter No.911, Sector 1
R.K.Puram, New Delhi.

...Applicants

(By Advocate Sh. M.L.Chawla)

V E R S U S

1. Union of India through
The Secretary to the Government
of India, Ministry of Home Affairs
New Delhi 110 011.
2. The Chairman
Staff Selection Commission
Block No.12
Kendriya Karyalaya Parisar
Lodi Road
New Delhi - 110 003.
3. Secretary to the Govt. of
India, Ministry of Personnel,
Public Grievances & Pensions,
Block No.12,
Kendriya Karyalaya Parisar
Lodi Road
New Delhi - 110 003.

...Respondents

(By Advocate Sh. B.S.Jain)

O R D E R

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

Alleged inaction of the respondents to regularise the applicant in appropriate group "D" post is under challenge in this OA.

2. S/Shri M.L.Chawla and B.S.Jain, represented the applicants and the respondents during the hearing.

3. All the three applicants, who are casual workers, had been granted temporary status w.e.f. 1993 in terms of DOPT's Casual Labourers (grant of Temporary Status and Regularisation) Scheme of 1993. The Scheme provided for filling up two out of three vacancies in group 'D' in the organisation by holders of temporary status, and thus regularize them with consequential benefits. Though vacancies did exist from 1994 and they were eligible for being considered for regularisation since 1994, the applicants have been denied the benefit. They had also represented in the matter and following the decisions of the Tribunal in OA No.2649/2000, pronounced on 19-12-2000, directing the respondents to decide the representation of the applicants. ^{Respondents} ~~Representants~~ by their impugned order dated 16-2-2001, rejected the representation, holding that regularisation of those with temporary status was subject to availability of vacancies and other conditions like accommodating surplus staff. Hence this OA.

4. Grounds raised in the OA, reiterated by Sh. Chawla are that the applicants have been waiting for regularisation for nearly eight years, filling up the vacant post, 100 % from surplus staff was illegal; having held temporary status for a long time they should be treated at par with temporary employees and granted consequential benefits ; not considering the case of the applicants was illegal and unconstitutional ; though the applicants were to be given two out of three vacancies, not even one has been granted to appointment which have gone to the

surplus staff; respondents' action amounted to unfair labour practice ; the applicants have been discriminated and that the respondents are expected to formulate a scheme/mechanism to consider the absorption of those like the applicants as well.

5. In the reply, after detailing the genesis of the issue, respondents point out that the impugned order dated 16-2-2002 had shown that regularisation of the applicants and similarly placed individuals was possible only in terms of the existing orders of the Govt. Though all the three applicants are casual workers with temporary status since 1-9-1993, their regularisation is contingent upon availability of vacancies and non-availability of surplus staff from Directorate General of Employment and Training. Regular group 'D' employees who have become surplus have a higher claim than the applicants. Besides, Govt. has undertaken reduction of posts as well as non-filling of vacancies in tune with the policy of austerity. Screening committee have also been constituted for the purpose and the creation of fresh posts and retention of vacant posts are matters to be decided by the Screening Committee and, therefore, adoption of the applicants by regularisation would be a long and time consuming exercise. Applicants are correct when they state that instructions are present in the 1993 scheme for regularising those with temporary status against two out of three vacancies, but this would be subject to availability of vacancies. Further, respondents are bound to accommodate and adjust regular staff rendered surplus. Further, the applicants are at times called up for

overtime duties , which did not mean that the work is on a regular and permanent basis. Merely because the casual labourers with temporary status, after three years service, are given certain benefits, they do not become entitled for automatic regularisation. Their right is secondary to those who have been rendered surplus. Even, otherwise as laid down by the Hon'ble Apex Court in the case of Sankarshan Das Vs UOI (1991)3 SCC 47. mere presence of vacancy does not confer any right on any individual for being appointed to a post. Sh. B S Jain , learned counsel for the respondents , also pointed out that as the applicants already have temporary status, and their employment was not at stake, there was no reason for any apprehension by them.

6. I have carefully considered the case. In this OA three applicants who were casual workers, granted temporary status in 1993 are seeking regularisation as of right. They are also unhappy that those from surplus cell of DGE&T's organisation are being preferred in the matter of filling up the vacancies. No doubt, all the applicants are casual labourers with temporary status and are therefore entitled for regularisation in their turn subject to availability of vacancies and in terms of other relevant instructions. However, the Scheme for Casual Labourers (Grant of temporary status and regularisation) 1993 does not specify or direct that those with temporary status should be granted regularisation within any specified time frame. The scheme does provide that two ^{out} of three vacancies in Group "D" should be filled by those with temporary

status. The same however, is subject to non availability of staff from surplus cell of DGET. Since those on the surplus cell are regular staff, rendered surplus for whatever reasons, they have priority over those with temporary status, in accordance with instructions and rightly too. Applicants have already been granted temporary status and been given the benefit of grant of allowances etc. on their completing three years of service, but their regularisation would have to be ordered only after adjusting surplus staff, who have better claims. This does not involve any discrimination or violation of article 14 of the Constitution, as alleged, as those with the temporary status like the applicants and the regular (surplus) staff are not similarly placed and there is no ground for seeking parity between parties who are not equally circumstanced. Applicants therefore would have to await their turn and cannot seek or be granted priority over the surplus staff as prayed for.

7. In the above view of the matter, I find that the applicants have not made out any case for my interference. OA thus being devoid of any merit is dismissed. No costs.

(Govindan S. Tampi)
Member (A)

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