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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 3160/2001

This the 12th day of May, 2003

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

1. Parideen s/o Sh. Khimai
r/o B-60, New Rajinder Nagar,
New Delhi-110060.
2. Veer Singh s/o Sh. Khushpal Singh
r/o E-27, Mangol Puri,
New Delhi-110083.
3. Jagannath Mahtoo
s/o Sh. Pawgani Mahtoo
r/o I-59, Chiriyia Colony,
I.A.R.I. Pusa,
New Delhi-110012.
4. Bahadur Paswan
s/o Sh. Anand Pal Paswan,
I.A.R.I. Pusa,
New Delhi-110012.
5. Basudev s/o Rami Ram Gopal
r/o H.No.33/73, Pusa Gate
New Delhi-110005.

(Service of all notices on the Applicants' Counsel's following address:

Satya Mitra Gang.
Advocate
113-C, DDA LIG Flats,
Motia Khan, Jhandewalan,
New Delhi-110055.

(By Advocate: Sh. S.M.Gang)

Versus

1. Council of Scientific and Industrial Research through its Director General,
Rafi Marg, New Delhi-110001.
2. National Physical Laboratory,
through its Director, Pusa Road,
New Delhi.

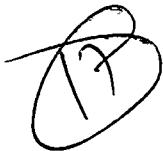
(Service of all notices on the Respondents' above address)

(By Advocate: Sh. Kapil Sharma)

ORDER (ORAL)

This is a joint application filed by 5 persons who are alleged to have worked as casual labour with the respondents and seeks re-engagement, in view of the orders passed by this

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Tribunal in earlier OA-48/97 as well as order passed by the Hon'ble Supreme Court. Applicants have also annexed alongwith a list of daily wagers maintained by Resp. No.2 which is at Annexure-I available at paper book at pages 15 to 19. Respondents do not deny that the matter was earlier decided by the Tribunal and have gone upto the Hon'ble Supreme Court. The Hon'ble Supreme Court had given a direction directing the department to implement the order passed by the Tribunal which had modified the scheme to some extent within 15 months from today i.e. 10.8.94.

2. Thereafter some of the applicants had also filed another OA which was registered as OA-48/97 and was decided on 13.12.2000. The said OA was also allowed with the direction to the respondents to make every effort to re-engage the applicants as daily wage casual labourers in different units of CSTB within 2 months from the date of receipt of a copy of this order.

3. It was also brought to the notice of the Tribunal that few persons senior to the applicants were also waiting for engagement as casual labourer. Court observed that while implementing the directions given in OA-48/97, respondents should not lose sight of the claim of persons senior to the present applicants. On the strength of this, counsel for applicants submit that even judgments given by Hon'ble Tribunal as well as Hon'ble Supreme Court are judgments in rem and when the counsel for department informed the Tribunal in OA-48/97 certain seniors persons are awaiting as casual labour that amounts to restricting the respondents that they have to consider senior before appointing even the applicants in



OA-48/97. Thus, the contention of the applicants that these judgments are in rem and are not in personum are sufficient therem and accordingly the respondents are bound by their statements that they are to take care of persons who are senior and awaiting engagement as casual labourers as they have made a statement in OA-48/97.

4. Counsel for respondents while opposing the OA, have also submitted in OA-3021/01 where the case of the applicants for re-engagement was dismissed on the ground of delay and limitation, as the Court observed that the OA is barred in terms of Section 21 of the AT Act and Court did not hear the case on merits.

5. As far this judgment is concerned, counsel for applicants submitted that first of all cause of action has arisen after certain juniors have been re-engaged otherwise they were satisfied with the implementation of the scheme and they were waiting for their turn to be re-engaged as per the scheme itself. Since certain juniors have been re-engaged, so applicants have approached the Court at this stage. It appears that this aspect was not placed before the Tribunal. When OA-3021/2001 was decided rather the facts as reproduced in the OA-3021/2001 does not show it at all applicants therein had claimed that any junior to him had been re-engaged. Since the name of the applicants appeared in the seniority list issued by the department itself, so I find that the applicant has a right to be engaged in accordance with the scheme issued by the respondents themselves which was modified by the Tribunal and upheld by the Hon'ble Supreme Court. So whenever there is a vacancy of casual labour available with them they shall engage the persons as per seniority in the seniority

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list. It is pointed out that only applicant No.1 & 2 are in the seniority list, so their case has to be considered in accordance with the seniority list.

6. As far other applicants are concerned, they are not in the seniority list furnished by the respondents. With regard to those applicants, they may make an independent claim before the respondents with sufficient proof that they had ever worked with them. Respondents shall consider their case separately. Accordingly, OA is disposed of.

7. At this stage, counsel for applicant submits that in the earlier OA against which writ petition was filed before Hon'ble High Court, Court has specifically directed that respondents shall not engage any fresh casual worker or a labourer through contractor. Counsel for respondents points out that as on date they have not engaged any casual worker through contractor. However, learned counsel for the applicant submitted that as far as the case of Ram Prakash who had been engaged and is working with the respondents, counsel for respondents has pointed out that he has been wrongly appointed and his service would be terminated after following the due procedure.

8. In view of the state of affairs the OA can be disposed of with the following directions:-

(i) The applicants whose name appear in the seniority list furnished by respondents themselves they will be appointed as and when vacancies become available in their turn.

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(2) The other applicant who claim to have worked with respondents shall make a comprehensive representation to respondents with convincing material to prove that they had worked with respondents and in case respondents feel satisfied they may also be re-engaged as per their turn in accordance with the scheme.

9. OA stands disposed of.


(KULDIP SINGH)
Member (J)

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