

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.401/2001

M.A.NO.366/2001

Tuesday, this the 20th day of August, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

1. CPWD Karamchari Union (Regd.)
Through its President
Shri Hukum Chand, Plot No.1,
Aram Bagh, Near Udasin Mandir
New Delhi-55
2. Sumesh Chander (Driver)
s/o Shri Randhir Singh
B-31, Naya Bazar, Najafgarh
New Delhi-43
3. Ram Bhool (Beldar)
s/o Dharam Singh
Village & PO Kaserwa (Sahapur)
Distt. Muffazr Nagar, UP
4. Prem Singh (Beldar)
s/o Shri Govind Singh Sah
E-2, Srinivaspuri,
New Delhi-65
5. Devender Tiwari (Driver)
s/o Shri Ram Lal Tiwari
Village & PO Mohd. Pur
Distt. Chapra, Bihar
6. Sunil Kumar (Beldar)
s/o Shri Hari Kishan Sharma
r/o 72, Sant Nagar, New Delhi-65
7. Shri Kilob Singh (Driver)
s/o Shri Jai Singh Natain
c/o C.P.W.D. E-D/INSGP
Manaser, Gurgaon

Also r/o M-15, Mahalaxmi Garden
Railway Station, Gurgaon

8. Shri Raj Kumar (Driver)
s/o Shri Hoti Lal
R/o Village Lora, Post Ashwari
Distt. Bulandhshar, UP
9. Surender Singh (Driver)
s/o Raghbir Singh
r/o Village Devas Post Ranikhera, Delhi-81
10. Sunder Lal (Driver)
Shri Devi Sahai
r/o Shakur Pur J.J. Colony
House No.411, Delhi-34
11. Mithlesh Kumar (Wireman)
s/o Shri Pokhar Das
r/o 14/15, Guru Teh Bahadur Colony
Kaithal, Haryana
12. Karamvir Singh (Driver)
s/o Jai Narain
B-31, Naya Bazar, Najafgarh, Delhi-43
13. Krishan Kumar (Driver)
s/o Shri Karam Chand
r/o Hudco Project Division-I
1 & 2 New Delhi
14. Surender Kumar Gupta
s/o Kavar Singh Gupta
F-1-57, Saroop Nagar, Delhi

...Applicants

(By Advocate: Shri K.N. Dass)

Versus

1. Union of India
Secretary
Ministry of Urban Development, Nirman Bhawan
New Delhi
2. Union of India
The Secretary
Ministry of Finance,
North Block, New Delhi
3. The Director General of Works
CPWD Nirman Bhawan
New Delhi
4. The Chief Engineer
Delhi Outer Zone
CPWD Sewa Bhawan
1st Floor, R.K. Puram
New Delhi

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5. The Chief Engineer
K.G. Marg, Curzon Road (PNP)
8-Barrack, B-I, New Delhi

(By Advocate: Shri Rajeev Bansal)

....Respondents

ORDER (ORAL)

Shri S.A.T. Rizvi:

CPWD Karamchari Union (Regd.) through its President has filed the present OA along with thirteen individual applicants working as Drivers, Peons, Wiremen, Operators, etc. They seek directions to be issued to the respondents to regularize the services of the individual applicants with effect from the date from which each one of them completed one year of service. Directions have also been sought for granting them the same pay and other benefits as are admissible and payable to their regular counterparts. All of them possess qualifications for the post of muster roll/hand receipt workers. Being middle class pass, they are eligible for the posts in Grades III and IV in the CPWD. They have been working in some cases from 1988 and in others from 1989 excepting two of them who have been working from 1990 and 1992 respectively. Of the applicants, ten had been working in the Manesar project (Gurgaon)/Haryana of the National Security Guard and the remaining three in the project of HUDCO at New Delhi. The project at Manesar (Haryana) is complete. However, in order to take care of the requirement of the ^{phase} maintenance of the project, five applicants still continue to work at Manesar. Remaining five applicants have since ^{been} shifted over to Delhi where they have working on muster roll basis directly under the respondents. The HUDCO project at Delhi is yet to be completed and, therefore, three applicants, namely, applicant Nos. 2, 12 and 13 engaged for that project continue to work in the same. All the applicants are getting

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pay in the regular pay scale applicable to the corresponding grades fixed at the minimum of the scale. Annual increments have, however, been denied to them. Other allowances, such as, HRA, DA, CCA and transport allowance are being given to all of them.

2. The learned counsel appearing on behalf of the respondents has raised certain preliminary objections regarding territorial jurisdiction, non-exhaustion of departmental remedies and lack of community of interest for entertaining the MA for joining together. We have considered the aforesaid objections and find that none of them can be sustained. The ground of lack of territorial jurisdiction cannot be sustained for the reason that the redressal of grievance of regularization is in the hands of the authorities located at Delhi and partly also because about eight applicants are working in Delhi. Regarding exhaustion of departmental remedies, we find that no such remedy is statutorily available to the applicants, who are not Government servants due to lack of regularization. On the question of community of interest, it is clear to us that inasmuch as all of them seek regularization, there is community of interest and further, at least ten of the applicants had been working in the same project at Manesar with only three at Delhi. In this view of the matter, community of interest can be readily inferred. The MA filed by the applicants for joining together is, in the circumstances, allowed and the aforesaid preliminary objections raised by the learned counsel for the respondents are set aside.

3. The records placed on file do indicate that the respondents, on their own, have been making efforts to regularize the applicants and those similarly placed. For instance, by their letter of 13.8.1996 (page 48 of the paper book), the official respondents have themselves asked for the

names of daily wage labours working under NSGP for considering their claim for regularization. Two more letters issued by the official respondents calling for the names of muster roll workers in December 1995 and February 1996 have been placed before us by the learned counsel for the applicants along with the rejoinder affidavit filed on behalf of the applicants. The latter circular letters do relate to the muster roll workers working at Manesar. What developments have taken place in this regard is, however, not known to the parties.

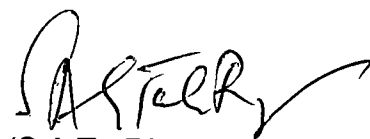
4. The learned counsel appearing for the applicants has relied on Dharwad Distt. P.W.D. Literate Daily Wage Employees Association & Ors. Versus State of Karnataka & Ors., decided by the Hon'ble Supreme Court on 23.2.1990 and reproduced in (1990) 2 SCC 396 and State of Haryana and Ors. etc. etc. Versus Piara Singh and Ors. etc. etc. decided by the Apex Court on 12.8.1992 and reproduced in 1992 (4) SLR 770 to bring home his contention that having rendered satisfactory ^{service} even if on muster roll basis for tens of years, the applicants have become entitled to be considered ^{ed} for regularization. In the case of Dharwad Distt. P.W.D. Literate Daily Wage Employees Association & Ors. (supra), the Supreme Court has, while dealing with a similar issue, held that "Equal pay for equal work and providing security for service by regularising casual employment within a reasonable period have been unanimously accepted by the Supreme Court as a constitutional goal to our socialistic polity...". Likewise, in the case of State of Haryana and Ors. etc. etc. Versus Piara Singh and Ors. etc. etc. (supra), the Supreme Court has held thus:

"While we agree that persons belonging to these categories continue over a number of years have a right to claim regularisation and the authorities are under an obligation to consider their case for regularisation in a fair manner

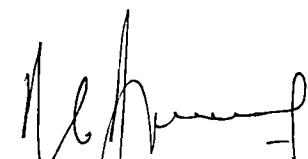
keeping in view the principles enunciated by this Court. The blanket direction given cannot be sustained."

5. On consideration^{of} the principles enunciated by the Apex Court, we find that there is substance in the applicants' claim that the respondents should consider regularizing their services as expeditiously as possible. The learned counsel appearing on behalf of the respondents submits that at present there are no regular vacancies available against which the applicants can be considered for regularization. He does not ~~foresee~~ ^{foresee} any problem, however, ~~to~~ the consideration of the applicants' claim in due course as and when regular vacancies arise. Accordingly, we direct the respondents to consider the claims of the applicants for regularization as expeditiously as possible and in accordance with their seniority amongst the muster roll workers. It goes without saying that when it comes to regularizing the applicants, the relevant rules regarding eligibility will find application. There will, however, be age relaxation by the number of years the applicants have worked as muster roll workers.

6. The present OA is disposed of in the aforestated terms. No costs.



(S.A.T. RIZVI)
MEMBER (A)



(ASHOK AGARWAL)
CHAIRMAN

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