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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1649/99

New Delhi this the 26th day of October, 1999.

Hon'ble Sh. S.P. Biswas, Member(A)

1. Sh. Naresh Kumar,
S/o Sh. Banarsi Dass.
2. Sh. Shiv Bhadur,
S/o Sh. Laxman Pal.
3. Sh. Sant Ram,
S/o Sh. Bhairupi.
4. Sh. Ajab Singh,
S/o Sh. Bhiga Ram.
5. Sh. Vikas Chand,
S/o Sh. Devinder Nath Dev.
6. Sh. Ram Samuz Yada,
S/o Sh. Ram Dhari Singh Yadav.
7. Sh. Rajinder Bind,
S/o Sh. Channu Lal Bind.
8. Sh. Jaibir Singh,
S/o Sh. Surat Singh.
9. Sh. Rajinder Kumar,
S/o Sh. Om Parkash.
10. Smt. Asha Devi,
W/o Sh. Jagdish. Applicants

All applicants are C/o Sh. Yogesh Sharma, Advocate
(through Sh. Yogesh Sharma, Advocate)

versus

1. Union of India through
the Secretary,
Ministry of Health,
Govt. of India,
Nirman Bhawan,
New Delhi.
2. The Director, Admn. (Stores),
Dte. General of Health Services,
Medical Stores Organisation,
R.K. Puram, New Delhi.
3. Dy. Asstt. Director General,
Govt. Medical Store Depot,
Govt. of India, Behind Qutab Hotel,
New Delhi-10. Respondents

(through Sh. Gajender Giri, Advocate)

ORDER(ORAL)

Applicants, 10 in number, are aggrieved by the respondents action in terminating their services by a verbal order dated 26.07.99. The said termination did not preceed by any show cause notice, much less any written warning. Consequently, the applicants are before us seeking relief in terms of issuance of directions to the respondents not to terminate their services and also to grant them temporary status on the basis of the Scheme dated 10.09.93 in operation.

2. The learned counsel for the applicant argued to say that the applicants having been engaged in the services under the respondents in 1994-96 continued to work till July 1999 when their services were terminated. Before the terminations, the applicants did complete 240/ 206 days of services in a calender year under the respondents. According to the applicants, as per the Scheme introduced by the respondents as at Annexure A-5, they are entitled for temporary status which has been wrongly denied to them. The applicants would also submit that the respondents have since created 93 new posts and in this background termination of their services was not called for.

3. In the counter, Shri Giri, learned counsel for the respondents submits that there is substantial reduction in the quantum of work under

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the respondents and hence they are only continuing with those of the casual labourers who have already been offered the temporary status long before. Since 26 such officials are already with them, they are not in the need of services of the applicants any more particularly in the context of the working load having come down. He further submits that no fresh hands are being taken now in the shape of casual labourers. The respondents would also contend that those of the casual employees who have entered into services under the respondents after 10.09.93 are not eligible for grant of temporary status in terms of the provisions under para 4.1 of the Scheme dated 10.09.93.

4. In the background of rival contentions put forth by learned counsel for both parties, the issue that falls for determination is the legality of the applicants claim in obtaining the temporary status or re-engagement. What is not in doubt is that the respondents have now created some new posts which carry jobs the applicants are doing. It is also not in doubt that the respondents cannot insist upon the need of getting the names of applicants sponsored through the Employment Exchange for appointment as casual labourers following the judgement of the Apex Court in the case of Excise Supdt., Malphapatnam/Krishna Dist. Vs. K.B.N.V. Rao (JT 1996(9) SC 638: 1996(6) Scale 676).

5. In the background of such a situation, the respondents are bound to engage the casual labourers strictly in terms of the law laid down by the Apex Court in the case of Inder Pal Yadav and Ors. Vs. U.O.I. (1985(2) SCC 648). In other words, if the respondents have jobs, they have no alternative but to engage the casual labourers in terms of seniority and no fresher could be appointed. We are also unable to accept the contention of the learned counsel for the respondents that the Scheme of 10.09.93 is only applicable to those who were appointed on or before that date. We held this view in the light of the decision of this Tribunal in OA-433/98 decided on 10.07.98. In other words, if there are vacancies and if the respondents need to have services of the casual labourers, the applicants will have the legal right to be considered for re-engagement in terms of the law laid down by the Apex Court as aforesaid. Respondents shall also consider offering temporary status to applicants in terms of the Scheme dated 10.09.93.

6. The O.A. is disposed of as aforesaid.

No costs.


(S.P. Biswas)
Member (A)

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