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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1923/1999

New Delhi this the 28th day of March, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

1. All India CPWD (MRM) Karamchari Sangathan (Regd.) its President, Sh. Satish Kumar, 34-D, D.I.Z. Area, Sector 4, Raja Bazar, New Delhi-1
2. Karamjit S/O Sh. Udho Ram, Motor Lorry Driver, 1 Divn. CPWD.
3. Anand Raj S/O Sh. V.K. Rai, Motor Lorry Driver, ED-4, C.P.W.D.
4. Vijay Chand S/O Sh. Nanak Chand, Motor Lorry Driver, ED-4, C.P.W.D.
5. Anil Kumar S/O Sh. Mag Ram, Motor Lorry Driver, 'B' Divn. CPWD.
6. Gurdip Singh S/O Sh. Swaraj Singh, Motor Lorry Driver, PWD-24, Manju Ka Tila.
7. Surender Singh S/O S. Rana Singh, Motor Lorry Driver, PWD-24, Manju Ka Tila
(Applicants No. 2 to 7 care of the All India CPWD (MRM) Karamchari Sangathan (Regd.), 34-D, DIZ Area, Sector 4, Raja Bazar, New Delhi-110001

. Applicants

(By Advocate Sh. Naresh Kaushik, learned counsel through proxy counsel Sh. Narender Roy)

VERSUS

1. Union of India, through its Secretary, Ministry of Urban Affairs and Employment, Nirman Bhawan, New Delhi-11
2. The Director General of Works, C.P.W.D. Nirman Bhawan, New Delhi.

. Respondents

(By Advocate Sh. D.S. Jagotra)

ORDER (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J))

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The main grievance of the applicants in this case is that even though they have been working for

more than 10-13 years as Muster Roll employees in the capacity of Motor Lorry Drivers (MLDs), the respondents have deliberately and intentionally neglected their claim for regularisation but have continued to keep them on Muster Roll basis. The applicants have prayed for an appropriate direction to the respondents to regularise their services with effect from the date of completion of one year service with consequential benefits.

2. We have carefully perused the pleadings, documents on record and also considered the submissions made by Shri Narendra Roy, learned proxy counsel for the applicants and Shri D.S.Jagotra, learned counsel for the respondents.

3. From the particulars given by applicants 2-7 in Annexure 1, it is noticed that they have been appointed as MLDs in various Divisions of the CPWD from May 1987 to November, 1990. According to the learned counsel for the applicants, these persons are still continuing as Muster Roll employees since the date of their appointment. He has submitted that in terms of the provisions contained in CPWD Manual, in the first instance the respondents ought not to have employed them for more than one year which, however, is not so in the present case. He has submitted that the respondents have continued the applicants as MLDs for more than 10-13 years on Muster roll. He has relied on Paragraph 2.02 of the CPWD Manual (Vol.III) (Annexure RA 2 to the rejoinder. In the rejoinder, the applicants have also submitted that there are

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thousands of posts which are lying vacant with the respondents against which they could have been considered for regularisation which action has not been done by the respondents. They have also submitted that in 1992 Govt of India approved creation of 8992 posts in work charged category as new posts for regularisation of muster roll workers in that year. Further the learned counsel has submitted that neither the respondents have filled these vacancies nor any of the posts of 1610 which fell vacant later. Apart from this, he has contended that other posts may have become available on account of retirement, deaths and promotion etc. which have also not been filled up by the respondents since 1992.

4. The above averments, regarding the posts that have remained vacant since 1992, have been brought out by the applicants in their rejoinder. However, these are matters of fact which is for the respondents to verify from their records. We further notice from the documents filed by the applicants themselves to the rejoinder that against Serial No.8-MLD, the number of posts shown are 148 in the letter dated 1.9.1992. As mentioned above, these being a matter of fact it will have to be left to the respondents to verify from the official records.

5. Learned proxy counsel for the applicants has relied on the judgement of the Tribunal in All India CPWD (MRM) Karamchari Sangathan (Regd) and Ors. Vs. UOI & Ors (OA 1550/1999) decided on 15.11.2000, copy placed on record.

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6. Taking into account the facts and circumstances of the case and the settled position of law, the prayer of the applicants for a direction to the respondents to regularise their services as MLD or as workmen in any other categories cannot be granted. It is settled law that persons have only a right for consideration for selection/promotion to the posts, subject to fulfilment of the eligibility conditions and other conditions laid down under the relevant Recruitment Rules. We note from the submissions made by the learned counsel for the respondents in Sambhu Nath's case (supra) that they have contended that regularisation and continuance cannot be claimed, unless vacancies are available and that each of the categories of posts are governed by separate RRs. In the present case, the respondents have taken a plea that the OA is vague but we find that the reply given by the respondents is equally vague. However, they have submitted that there is no proposal at present to regularise the casual labourers after issue of Ban order in 1985, which fact has been disputed by the learned proxy counsel for the applicants. In any case, the respondents cannot take this plea of the Ban because the applicants have continued as MR employees for more than a decade. It is only in the counter reply filed by the respondents on 16.5.2000 that they have stated that cases are being processed for taking action against the defaulting officers, which also shows that persons like the applicants have been employed and are continuing to be employed on Muster Roll basis for much more than a decade.

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7. In view of what has been stated above, the OA is disposed of with the following directions:-

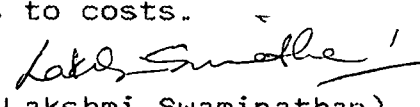
1. The respondents to verify from their records the number of vacant posts in the category of employees to which applicants 2-7 belong i.e. Motor Lorry Driver;

2. After verification of the necessary particulars pertaining to the applicants, they should consider regularisation of their services against the vacant posts, subject to their suitability and fulfilment of the terms and conditions as laid down in the RRs. Taking into account the facts and circumstances of the case, particularly that the respondents themselves have not denied the fact that they have continued the applicants as Muster Roll employees for much more than a decade, they shall if necessary grant age relaxation as provided under the Rules;

3. Learned proxy counsel for the applicants states that the applicants will submit the particulars and necessary applications for the above purpose to the respondents.

No order as to costs.


(Govindan S. Tampi)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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