

Central Administrative Tribunal
Principal Bench

O.A.No.279/99
M.A.No.283/99

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 17th day of August, 1999

1. Dinesh Nakwal
s/o Sh. Babu ram
r/o WC - 145, Netaji Nagar
New Delhi.
2. Niranjan
s/o late Sh. Manohar Lal
r/o 315 B Kusumpura Pahari
Vasant Vihar (Jhuggi)
New Delhi. Applicants

(By Shri Deepak Verma, Advocate)

Vs.

1. Union of India through
The Secretary
Ministry of Home Affairs
North Block
New Delhi.
2. The Director
National Crime Records Bureau (NCRB)
East Block 7, R.K.Puram
New Delhi. Respondents

(By Shri N.K.Agarwal, Advocate)

O R D E R (Oral)

The applicants who were initially engaged on daily wages had earlier come to this Tribunal in OA No.2145/96 aggrieved by the respondents action in terminating their services w.e.f. 1.6.1996. The said OA was disposed of by a common order dated 17.1.1997 with the following directions:

"Since, admittedly, the applicants would have been entitled to have been granted temporary status prior to the issuance of the impugned order dated 30.5.1996 and no notice, as provided in paragraph 7 of the said Scheme had been given to them, the impugned order is quashed and set aside. The applicants shall also be entitled to be paid one month's salary, which shall be paid within the same period, as directed above. Consequently, since, admittedly, two posts of Farash are still vacant, in case the respondents consider filling up these posts, they shall consider the claims of the applicants for re-engagement/regularisation in those posts in

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accordance with the rules and in preference to outsiders and freshers. It is also made clear that in case any other Group 'D' posts are vacant, the respondents shall also consider the claims of the applicants for regularisation against such posts in accordance with the Scheme." (2)

2. Applicants have now come before the Tribunal and submitted that the respondents instead of considering them for regularisation have instead filled up the post of Sweeper through Employment Exchange ignoring their claim. The respondents in their reply have stated that the directions of the Tribunal were related only to the filling up of the posts of Farash and not that of Sweeper.

3. I have heard the counsel. The learned counsel for the respondents has drawn my attention to paragraph 8 of Grant of temporary status and regularisation Scheme, 1993, Annexure-R3. This provides that two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up from amongst casual workers with temporary status. The learned counsel submits that since once one post of Sweeper was available, this necessarily had to be filled in through the Employment Exchange.

4. Having considered the matter carefully, I am unable to agree with the submissions and the arguments advanced on behalf of the respondents. In case two out of three posts falling vacant in Group 'D' are to be filled up through the casual workers with temporary status it cannot be said that the single vacancy has to be filled through direct recruitment. Obviously it has to be filled up by the method which is the predominant ^{one} in the Scheme,

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namely, from amongst the casual labourers. The learned counsel for the respondents submits that a Sweeper has already been appointed and he has been working from January, 1999. He however makes a submission on behalf of the respondents that for any further post which falls vacant after the said post of Sweeper, the respondents will be considered for regularisation.

(3)

5. In view of this position, the OA is disposed of with a direction to the respondents that any post of Group 'D' under the respondents which fall vacant after the post of Sweeper, that is the subject matter of this OA, the same shall be filled ^{and} ~~up~~ after considering the applicants herein.

R.K.Ahooja
(R.K.AHOOJA)
Member(A)

/rao/