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RECORDED

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI**

O.A. No. 309/99

New Delhi this the 31st day of August, 2000

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. Shri Satya Prasad Uniyal
s/o late Sh. Rameshwar Prasad
R/o 267, Muniraka Village,
NEW DELHI-110067.
2. Shri Chhotu Ram
s/o Sh. Fateh Singh
R/o H.No.140, Devali Village,
NEW DELHI.
3. Shri Satish Chander
S/o late Shri Mohan Lal,
RZ/60 D, Street 25, Vasistha Park,
Pankha Road,
NEW DELHI.
4. Shri Subash Chand II
s/o Shri Hari Chand
r/o D-661, Ambedkar Nagar Sector I
5. Shri Kamal Singh
s/o Shri Roshiar Singh,
R/o Village & P.O. Neb Sarai,
NEW DELHI-110068.
6. Shri Hanbir Singh
s/o Sh. Amichand Singh
r/o G-228, Seema Puri,
NEW DELHI.
7. Shri Vijay Kumar III,
s/o Sh. Ram Pat
r/o H.No.65, Village Kanjhawala
8. Shri Verender
s/o Shri Jai Narayan
r/o Village Bhenta Hazipur,
Distt. Ghaziabad.

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9. Shri Dhirender Singh
s/o Shri Daulat Singh
r/o B-27, Burari Extension,
NEW DELHI-110084.

10. Shri Satya Narain Bhagat
s/o Sh. Makund Bhagat
t/o 3494, Model Band Vistar
Buder Pur Border,
NEW DELHI-110044.

11. Shri Gautam Rai
s/o Shri Jamuna Rai
r/o RZ-J-8-262 No.1, West Sagar Pur,
NEW DELHI.

12. Shri Shyam Sunder Singh
s/o late Shri Bhoga Ram
r/o 243A-1 Muniraka Village,
NEW DELHI-110067.

13. Shri Bag Mal
s/o late Shri Chanda Ram
R/o 21A, Muniraka Village,
NEW DELHI-110067.

14. Shri Jai Kritt Rawat
s/o Shri Bishram Singh
r/o 267 Muniraka Village,
NEW DELHI-110067.

15. Shri Pradeep Kumar
s/o Shri Fatehbir Singh
R/o 8/1, Maham Nagar,
Palam Airport,
NEW DELHI.

16. Shri Yogender Singh
s/o Shri Padam Singh
r/o RZ G280, Raj Nagar,
Palam Colony,
NEW DELHI.

17. Shri Ashok Kumar II
s/o Shri Jeet Ram,
r/o K-359, Mahipalpur Extn.,
NEW DELHI.

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18. Shri Dhari Ram
s/o Shri Shambhu Ram
r/o A 606, Dr. Ambedkar Basti,
R.K. Puram,
NEW DELHI.
19. Shri Raj Kumar III
s/o Shri Mahtab Singh
C-25, Nanak Chand Basti
Kotla Mubarakpur
NEW DELHI.
20. Shri Puran Singh
s/o Shri Sabar Singh
r/o C S P 27, Safdarjung Enclave,
NEW DELHI.
21. Shri Dharm Dev Singh
s/o Shri Surat Singh
r/o 34, H.No. Vill. Kakraula
NEW DELHI.
22. Shri Ashok Kumar I
s/o Shri Net Ram
r/o Vill. Kapashera,
NEW DELHI-110037.
23. Shri Dharm Pal
s/o Shri Jage Ram
Vill. Dikan Kalan,
NEW DELHI-110043.
24. Shri Narendra Kumar
s/o Shri Maya Dhari
r/o C-182, Jeevan Park,
Uttam Nagar,
NEW DELHI.
25. Shri Rajender
s/o Shri Gordhan Ram
r/o D-192, Bharat Vihar,
Kakraula,
NEW DELHI-110043.
26. Shri Bhaskara Nand
s/o Sh. Chander Mani
r/o Kutub Vihar, Goala Dairy,
NEW DELHI.

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27. Shri P. Marko
s/o Shri P. Ankaya
r/o 558/12, R.K. Puram,
Kanak Durga Colony,
NEW DELHI.
28. Shri Gopi
s/o Shri Nannu Ram
r/o Nangal Dairy, Gurgaon Road,
NEW DELHI.
29. Shri Prahlad Singh
s/o Shri Hanshi Ram
r/o Pandwala Kala,
NEW DELHI-110043.
30. Shri Harpal Singh
s/o Shri Amar Singh
r/o Village Kasan
GURGAON.
31. Shri Ramesh Kumar
s/o Shri Kashi Ram
A-10, Mohammed Pur Village,
NEW DELHI-110066.
32. Shri Devender Pal
s/o Shri Ram Prakash
r/o Plot No.B-34,
Vats Enclave, Prem Nagar III,
Nagloji,
NEW DELHI.
33. Shri Vinod Kumar I
s/o Shri Mohan Lal
r/o J.H.A. 47,
Paschim Vihar,
NEW DELHI-110053.
34. Shri Vinod Kumar II
s/o Shri T.N. Prabhakar
r/o J-264, Saket,
NEW DELHI.
35. Shri Dharmendra Nand
s/o Shri Madhav Nand Bhatta,
r/o H.No.272, Muniraka Village,
NEW DELHI-110067.

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36. Shri Lal Singh
s/o Shri Kare Singh
C-99, New Ashok Nagar,
DELHI-110096.
37. Shri Kewal Krishan
s/o Shri Hari Ram
r/o 1630/14, Kalkaji, Govindpuri,
NEW DELHI.
38. Shri Ganesh Singh
s/o Shri Pagali Singh
r/o 3034, Kotla Mubarakpur,
NEW DELHI-110003.
39. Shri Naresh Kumar
s/o Shri Tulsi Das
r/o A-95, Sukhdev Nagar,
Kotla,
NEW DELHI-110003
40. Shri Anand Singh Rawat
s/o Shri Jhabbar Singh
r/o C.S.P. 27, D.D.A. Flat,
Safdarjung Enclave,
NEW DELHI-110029.
41. Shri Jagdev Singh
s/o Shri Ram Asra
r/o 1074/10, Govindpuri Kalkaji,
NEW DELHI-110019.
42. Shri Subhas Chand III,
s/o Shri Jyoti Prasad
r/o H.No. 118, Harsh Vihar,
DELHI-110093.
43. Shri Sat Mohan
s/o Shri Babulal
r/o 169 Tilak Khand Guri Nagar,
Kalkaji,
NEW DELHI-110019.
44. Shri Parmanand I
s/o Shri Sohan Singh
r/o D-161A, Krishana Park, Devali Road,
Khanpur,
NEW DELHI.

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45. Shri Gain Chand I
s/o Shri Harla Rama
r/o 337/1B, Near Budh Vihar,
Munirka,
NEW DELHI-110067.
46. Shri D.P. Joshi
s/o Shri G.N. Joshi
r/o A-59, Munirka,
NEW DELHI-110067.
47. Shri Satish Kumar I
s/o Shri Ram Dhan
r/o D-106, Krishna Nagar,
Safdarjung Enclave, NEW DELHI.
48. Shri S.K. Shukla
s/o Shri K.N. Shukla
WZ 20, Krishna Park,
Tilak Nagar,
NEW DELHI-110018.
49. Shri Vijay Singh I
s/o Shri Hira Singh
r/o K/43E Sheikh Sarai Phase II,
NEW DELHI-110017.
50. Shri Vijender Kumar
s/o Shri Rattan Lal
r/o H.No.1503, Sector 3,
Pushpa Vihar,
NEW DELHI-110017.
51. Shri Bhushan Kumar
s/o Shri Gurdasmal
H.No. I 166, Vijay Vihar, Part II,
Rohini,
NEW DELHI.
52. Shri Jai Dev
s/o Shri Mohan Singh
r/o D-259, Ganesh Nagar,
DELHI-110092.
53. Shri B.P. Sharma
s/o Shri Deladar Sharma
r/o E-70, Hari Nagar Extn.,
(Badarpur),
NEW DELHI-110044.

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54. Smt. Lajjawati
w/o late Shri Om Prakash
r/o H.No.2579, Mohalla Niharin Katra Gaffar
Shardhanand Marg,
NEW DELHI-110006.

55. Shri Dhani Ram Sharma
s/o Sh. Amar Nath Sharma
r/o 911, Chand Mohalla Gandhi Nagar,
DELHI-110031.

56. Sh. Raj Kumar Sharma
s/o Shri
r/o Devlok Street, Gandhi Nagar,
DELHI-110031.

57. Smt. Daya Rani
w/o late Sh. Mangal Singh
r/o B-191, Nehru Vihar,
DELHI-110054.

58. Shri Virender pal
s/o Sh. Natha Ram
r/o E-71, Hari Nagar Extn.,
Badarpur,
NEW DELHI-110044.

59. Shri Rajender Singh IV
s/o Sh. Ram Narayan
r/o Village Uzwa,
NEW DELHI-110073.

60. Shri Ashok Kumar I
s/o Shri Prem Nath Bhatia
r/o H.No.1263, Pahari enly Jama Masjid,
NEW DELHI.

61. Shri Satya Narayan Sharma
s/o Sh. Ram Das Sharma
r/o Village Hisabda Baghpat
U.P.

62. Shri Raj Kumar III
s/o
r/o H.No.203, Rampuri,
Bhoor Bharat Nagar,
GHAZIABAD.

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63. Shri Shyam Sunder
s/o Sh. Shivalal
r/o B-248, Mukundpur Colony,
DELHI-110042.

64. Shri Chanderpal
s/o Sh. Ghurelal
r/o C-3/42, Nand Nagri,
DELHI-110043.

65. Shri Arun Kumar
s/o Shri Ganga Sharan Sharma
r/o Village Himayunpur (Mahmudpur)
GHAZIABAD.

66. Shri Hardutt Sharma
s/o Shri Mushaddilal
r/o Village Himayunpur (Mahamudpur)
GHAZIABAD.

67. Shri Lalji II
s/o Sh. Ramgiri
r/o H.No.176, Mandawli, Fazilpur
DELHI-92.

68. Shri Murarilal I
s/o Sh. Chetram
r/o Bhim Nagar, H.No.A-233,
GHAZIABAD.

69. Shri Puranmal
s/o Shri Battulal
r/o Sector 12, Vijay Nagar,
GHAZIABAD.

70. Shri Fateh Chand
s/o Shri Laxmi Chand
r/o Vill & P.O. Ahirmajra,
Distt. Sonipat (Haryana)

71. Shri Rajpal Sharma
s/o Shri Attar Singh Sharma
r/o Gram Durrayi, P.O. Kacheda
GHAZIABAD.

72. Shri Rajeshwar Dayal Sharma
s/o Shri Manak Chand Sharma
r/o Vill. & P.O. Nehala (Bulandshahar)

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73. Shri Mehar Chand
S/o Shri Tika Ram R/o Vill. &
P.O. Sankrol Distt. Baghpat. Applicants
(By Advocate: Shri Ashok Aggarwal)
Vs.

Versus

1. The Union of India,
through Secretary,
Ministry of Communication,
New Delhi.

2. The Chief Post Master General,
Delhi Postal Circle,
New Delhi-110 001. Respondents
(By Advocate: Sh. Harvir Singh, Proxy for Mrs. PK Gupta
O R D E R

Hon'ble Dr. A. Vedavalli, Member (J)

The 73 applicants in this OA are Casual Labourers (Daily rated) who were engaged by the Department of Posts during the years 1979 to 1984. They are still working in different Units/Offices of the Delhi Circle. They are aggrieved by the non-regularisation of their services by the Respondents against Group 'D' posts though they have been given temporary status several years ago.

2. Heard the learned counsel for both the parties. Perused the pleading and all the material papers and documents placed on record.

3. MA No. 306/99 for joining together is allowed.

4. The facts of this case, briefly, are as under:

In compliance with the direction as given by the Apex Court in their judgement dated 29.11.1989 in a

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batch of Writ Petition in Jagrit Mazdoor Union (Regd.) and Others Vs. Mahanagar Telephone Nigam Ltd. and Another 1990 (Supp) Supreme Court Cases 113, a Scheme dated 12.4.1991 (Annexure 'D') was framed by the Department of Posts in consultation with the Ministries of Law, Finance and Personnel and was approved by the President. The said Scheme became effective from 29.11.1989. According to the said Scheme, inter alia, "Temporary Status" would be conferred on the casual labourers in employment as on 29.11.1989 and who have rendered continuous service of at least one year. During the year, they must have been engaged for a period of 240 days (206 days in the case of offices observing five days week). Accordingly, 134 Casual Labourers including the present applicants were approved by the Respondents for conferment of temporary status w.e.f. 29.11.1989 by their order dated 22.1.1992 - (Annexure 'A'). After rendering three years of continuous service with "temporary status", the aforesaid Casual Labourers were treated at par with temporary Group 'D' employees of the Department of Posts as per the directions of the Supreme Court in their judgement dated 29.11.1989 in Jagrit Mazdoor Union (Regd.) and Others mentioned supra. The said decision of the Department was circulated by their letter dated 30.11.1992 (Annexure R-3). Pursuant to the said letter, 83 Casual Labourers including the present applicants who were earlier conferred temporary status were approved for treating at par with temporary Group 'D' officials w.e.f. 29.1.1992 by the Respondents' order dated 4.1.1993 (Annexure 'B'). Since the applicants have not - been regularised against any Group 'D' posts.

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subsequently even though they were working continuously for several years, they submitted their representations dated 30.11.1992 and 18.1.1999 (Annexure 'F' Colly) to the Respondents seeking their regularisation in Group 'D' posts on regular basis w.e.f. 29.11.1989. As there was no reply to the said representation by the Respondents, the applicants have filed the present OA.

5. The applicants in this OA have sought a direction to the Respondents to consider their cases for regularisation for Group 'D' posts on regular basis expeditiously and to regularise them in the said posts with all consequential benefits.

6. The OA is contested by the Respondents who have filed their counter to which a rejoinder has been filed by the applicants. An additional affidavit dated 4.4.2000 with respect to sanctioned posts and vacancy position regarding Group 'D' staff and another additional affidavit dated 7.7.2000 in respect of instructions regarding recruitment for the said posts have also been filed by the Respondents on directions from this Tribunal.

7. Learned counsel for the applicants, Shri Ashok Aggarwal, submitted that in spite of availability of a large number of vacancies, the Respondents have not regularised the applicants in Group 'D' posts on regular basis with the result that they have been deprived of various vital benefits like pension, special leave, special increments, uniform, eligibility for appearing in the examination for posts of Sorting Assistant etc.,

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and have been thoroughly exploited by the Respondents. He further submitted that the Respondents have not even bothered to give any reply to their representations regarding regularisation. He contended that inaction and failure on the part of the Respondents regarding the applicants' legitimate grievance is patently bad in law and prayed that the OA may be allowed with costs.

8. In reply, learned proxy counsel for the Respondent's counsel, Shri Harveer Singh, submitted that the applicants are asking for regularisation against Group 'D' posts. However, they cannot be regularised due to two reasons viz (i) non-availability of vacancies in Group 'D' - "test" as well as "non-test" category and (2) the applicants have to appear and clear an examination conducted in accordance with the relevant instructions dated 30.3.1979 (Annexure R-4) for their regularisation against vacancies in the "test" category. It was further submitted by him that the applicants were allowed to appear in the examination conducted annually for the posts of "Mailman" in Group 'D' cadre which is in the test category and they can be considered for regularisation only after they clear/pass the said exam, subject to the availability of vacancies in the Division/cadre and that some Casual Labourers have already been regularised. My attention was drawn to the contents of Para 4(E) of the counter wherein the details as to the number of vacancies filled up in Group 'D' "test" category by Casual Labourers by regularisation as on 31.12.1994 to 31.12.1999 are given. Learned counsel for the Respondents has also drawn my attention to the additional affidavit filed on 4.4.2000 wherein the

information as to the number of sanctioned posts and vacancy position in respect of group 'D' staff as on 24.2.2000 in New Delhi Sorting Division and Air Mail Sorting Division which was furnished by the Respondents (Annexures R-1 and R-2). He submitted that the vacancies are not being filled up due to the ban on recruitment and referred to the contents of a Circular dated 7.4.2000 (Annexure R-1) and another one dated 25.4.2000 (Annexure R-2) enclosed with the second additional affidavit dated 7.7.2000.

9. I have given my careful consideration to the matter.

10. The Casual Labourers (Grant of Temporary Status and Regularisation) Scheme dated 12.4.1991 (Annexure 'D'), it is seen, has been framed by the Respondents in compliance with the Directions of the Apex Court in their judgement dated 29.11.1989 in Jagrit Mazdoor Union (Regd.) and Others Vs. Mahanagar Telephone Nigam Ltd. and Another etc., All India Postal Employees Union Class III Vs. Mahanagar Telephone Nigam Ltd, Bombay and All India RMS and MMS Employees Union Vs. Union of India 1990 (Suppl.) SCC 113. In the aforesaid judgement the directions given by the Court in an earlier case viz. Daily Rated Casual Labourers Vs. Union of India 1988 (1) SCC 172 were referred to and it was observed that "as per the Department's Statement they have formulated a tentative Scheme for absorption of Casual Labourers and about a 1,000 justified posts are being created with the concurrence of the Nodal Ministry". As the aforesaid Scheme did not take into

account several special claims advanced by the petitioners in the two writ petitions filed by the Department of Posts and Union of India, the Apex Court gave several directions to the Department of Posts regarding HRA, Temporary Status etc., and further directed that "after rendering three years of continuous service with temporary status, the Casual Labourers shall be treated at par with temporary grade 'D' employees of the Department of Posts and would thereby be entitled to such benefits as are admissible to Grade 'D' employees on regular basis" (Vide para 12 of the judgement).

11. The Scheme dated 12.4.1991 (Annexure D-2) which was finally formulated by the Respondents thereafter contains several provisions regarding conferment of temporary status, regularisation etc. of Casual Labourers. Certain provisions of the said Scheme which are particularly relevant to the question of regularisation of Casual Labourers are extracted below:

Para 12/ Casual labourers may be regularised in units other than recruiting units also, subject to availability of vacancies.

Para 13. For purpose of appointment as a regular group D official, the casual labourers will be allowed age relaxation to the extent of service rendered by them as casual labourers.

Para 17. No recruitment from open market for group D posts except compassionate appointment will be done till casual labourers with the requisite qualification are available to fill up the posts in question.

12. The subsequent Circular issued by the Respondents dated 30.11.1992 (Annexure R/3) regarding Regularisation of Casual Labourers also contains inter alia, the benefits to which the Casual Labourers with temporary status after they complete three years of service with that status will be entitled to benefits admissible to temporary group 'D' employees such as those which are enumerated in the said Scheme including leave, GPF, Medical-aid, LTC, Insurance, Counting of relevant service while granting pension and retirement benefits after their regularisation etc .

13. The vacancy position given by the New Delhi Sorting Division and the Delhi Circle (Annexure R-I and R-II) of the additional affidavit filed on 4.4.2000 indicates the existence of a few vacancies in Group 'D' posts in test/non-test categories in the respective Divisions. It is also seen from Annexure R-II to the said affidavit that as per the relevant rules, a literacy test is to be conducted for "test category" candidates and an interview is to be conducted for "non-test category" candidates for recruitment to Group 'D' post, from the following categories viz.,

- 1) EDAs;
- 2) Casual labourers;
- 3) EDAS of neighbouring Division;
- 4) Nominees of Employment Exchange.

14. It was also stated in the said Annexure R-II to the additional affidavit that a literacy test will be held on 6.3.2000 to fill up vacancies of Group

'D' (Test category) and 35 casual labourers of Air Mail Sorting Division have applied for the said test. Outcome of the said test is not known. No information is furnished by the Respondents as to the vacancy position in test/non-test category of Group 'D' posts in other Divisions/Circles, if any, under them.

15. It is quite clear from the above that there are several vacancies of Group 'D' posts in both test and non-test categories which are still unfilled. The contention of the Respondents that applicants could not be regularised due to non-availability of vacancies in my view is, therefore, untenable and cannot be sustained.

16. Re the plea of the Respondents that the non-regularisation of applicants in Group 'D' post is due to the "Ban" on recruitment as per the Circulars dated 7.4.2000 and 18.4.2000 (Annexure R-I and R-II to their additional affidavit dated 7.7.2000), it is seen that the said circulars are of a general character and no specific time limit for completion of the review of all the vacant posts in the Department is stipulated. No reference has been made to the directions given by the Apex Court to the Department of Posts in the case of Jagrit Mazdoor Union (Regd.,) and Others (Supra) nor to the regularisation of casual labourers as per provisions of the Scheme dated 12.4.1991 (Annexure D) and the Scheme dated 30.11.1992 (Annexure R-III) discussed supra. The applicants in the present case admittedly have completed three years of temporary service several years ago and the Department ought to have considered them

for regularisation against available vacancies in the light of the said directions of the Supreme Court and provisions of the aforesaid Schemes and in accordance with their seniority and the relevant rules for recruitment to Group 'D' post. The 'Ban' on recruitment obviously is only of a recent ~~origin~~ and there is nothing on record to show the steps and measures taken by the Respondents regarding regularisation of the applicants prior to the said "Ban". Even otherwise the said "Ban" on recruitment which is of a general character and is indefinite cannot and should not stand in the way of the cases of the applicants being considered for regularisation against available vacancies since their right for such consideration has already accrued to them under the law.

17. In view of the above, I find that the aforesaid plea of the Respondents regarding the 'Ban' on recruitment is devoid of any merit and cannot be sustained.

18. In the facts and circumstances of this case and in the light of the aforesaid discussion, I am of the view that the Respondents have not been able to justify their stand regarding non-regularization of the applicants against the available vacancies and the prayer of the applicants in the OA deserves to be allowed.

19. In the result, the OA is allowed with the following directions:

Mo/s

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1. The Respondents are directed to consider the applicants for regularisation in Group 'D' posts on regular basis against available vacancies in test as well as non-test categories along with the other eligible candidates, if any, in accordance with the relevant rules and instructions within three months from the date of receipt of a copy of this order.
- 2) The Respondents should also consider the applicants along with other eligible candidates, if any, for regularisation against any vacancies in Group 'D' posts whether in test or non-test category as and when they arise expeditiously in accordance with the relevant rules and instructions.

The OA is allowed in the above terms. Order accordingly. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

Mittal