

Central Administrative Tribunal
Principal Bench

6.A. 429/99
&
6.A. 514/99

New Delhi this the 16th day of February, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

6.A.429/99

1. R.P. Mandal,
2. Rambabu Sharma,
3. Dinesh Kumar,
4. Jai Parkash,
5. Puran Singh,
6. Ram Swarup,
7. Surender Pal,
8. Joginder
9. Sateyandar Singh,
10. Partap Singh,
11. Yogesh Kumar,
12. Gurjeet Singh,
13. Rajesh Kumar,
14. Nizam,
15. Omvir,
16. Mahinder Singh,
17. Shiv Charan,
18. Shoeraj,
19. Satvir,
20. Smt. Mahmoo Nisa

22

21. Puran Chand
22. Smt. Bhagwanti
23. Pushparaju
24. A. Anthony
25. K. Kandhaswamy
26. Dharam Singh
27. Gajendar Singh
28. Jamuna Parsad
29. Ganesh
30. Bhulliram
31. Alexandar
32. Hari Ram
33. Davendar Singh
34. Smt. Attr
35. Smt. Hira
36. Smt. Dhanno
37. Surinder Singh
38. Anand Mani
39. Kalyan Singh
40. Birma Devi
41. Prem Wati
42. Kanhaiya Lal
43. Mandan Singh
44. Ram Babu
45. Chandar Kant
46. Jagbir
47. Pop Singh
48. Lok Babadur
49. C. Silvan
50. Madan Muttoo
51. Durga Singh
52. Nirmal Singh
53. Smt. Saroj
54. Smt. Laxmi
55. Munna Lal
56. Kishan Lal
57. Amausy

- 23
- 58. Partap Singh
 - 59. Padam Bahadur
 - 60. Ram Dayal
 - 61. Smt. Chameli
 - 62. Shammo Devi
 - 63. Tara Devi
 - 64. Mohan Chand
 - 65. Deep Chand
 - 66. Kishan Dai
 - 67. Sona Devi
 - 68. Vidya
 - 69. Sunder Singh
 - 70. Ram Dai
 - 71. Dulari
 - 72. Laxmi Narain
 - 73. Shiela Devi
 - 74. Sona Devi
 - 75. Laxmi
 - 76. Laxmi
 - 77. Om Parkash
 - 78. Ved Parkash
 - 79. Dinesh Kumar
 - 80. Eilam Chand
 - 81. Nanho Devi
 - 82. Devi Lal
 - 83. Raja Ram
 - 84. Pale
 - 85. Raj Kumar
 - 86. Kapoor Chand
 - 87. Tilak Ram
 - 88. Mukesh
 - 89. Raj Pal
 - 90. Mohd. Shajid
 - 91. Indra
 - 92. Vijay Kumar
 - 93. Chandan Singh
 - 94. Somwati
 - 95. Ram Kumar
 - 96. Jai Pal

97. Dalip Singh
98. Sadhu Ram
99. Davendar Kumar
100. Birender Dutt
101. Satvir
102. Jagat Singh
103. Urmila Devi
104. Davendar Mani
105. Jagdish
106. Manas
107. Shiv Kumar
108. Shaumesh
109. Ganga Singh
110. Prem Parkash
111. Ramesh Chand
112. Roop Singh
113. Panchoo Ram
114. Diwan Singh
115. Narottam Singh
116. Ramesh
117. Vinod
118. Davendar Kumar
119. Satish Kumar
120. Joginder Kumar
121. Parkasho
122. Chameli
123. Chandro
124. Roopwati
125. Suresh
126. Ram Saran
127. Hari Shankar ~~Wadi~~
128. Jagwati Devi
129. Babu Ram
130. Raj Pal
131. Rajit
132. Diwan Ram
133. Ajay Kumar
134. Dharam Singh
135. Ram Niwas

contd....5

(26)

- 136. Kagwato
- 137. Subodh Kumar
- 138. Jaipal
- 139. Permanand
- 140. Shyam Sundar
- 141. Davendar Kumar
- 142. Swaran Singh
- 143. Siya Ram
- 144. Devideen
- 145. Jahoor Buksh
- 146. Satish Kumar
- 147. Ram Singh
- 148. Bihari Lal
- 149. Deb Singh
- 150. Shiv Kailash
- 151. Karan
- 152. Pitambar Dutt
- 153. Mool Chand
- 154. Rattan Kumar
- 155. Surender Chaudhary
- 156. Nallaswamy
- 157. Umesh Kumar
- 158. OMwati
- 159. Mahendari
- 160. Narain Singh
- 161. Amrik Parsa-d
- 162. Premwati
- 163. Bhagwati Devi
- 164. Sanjay Saxena
- 165. Kashmiri
- 166. Pushkar Singh
- 167. Boudh Parkash
- 168. Jagdish
- 169. Gajraj
- 170. Ganga Ram
- 171. Mahesh Kumar
- 172. Kishor Joshi
- 173. Surender

63

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174. Pitambar
175. Phool Singh
176. Kamlesh
177. Bache Lal
178. Laxman Singh
179. Sahi Ram
180. Shripal
181. Shavistan
182. Ramnand
183. Kandaswamy
184. Annamalai
185. A. Kandaswamy
186. Raidhan
187. Anthony
188. Surendar
189. Bir Singh
190. Thakur Parsad
191. Dali Chandra
192. Kishan
193. Subhash Chand
194. Hari Oam
195. Satish Chand
196. Satbir Singh
197. Raj Karan
198. Mahesh Kumar
199. Smt. Jyoti
200. Smt. Sheela
201. Ravi Shankar
202. Arjun Chaudhary

All C/o R.P. Mandal
R/o C-23, Chatra Marg,
Delhi University Campus,
Delhi-110007

..... Appellants

By Advocate Dr. Surat Singh with Shri Pradeep Kumar.

Versus

1. Secretary
Department of Culture
Ministry of Human Resources and
Development
Shastri Bhawan
New Delhi.

15

28

-7-

2. Joint Secretary,
Department of Ministry of Human
Resource and Development,
Shastri Bhawan,
New Delhi.
 3. Addl. Director General Incharge,
Archeological Survey of India,
Janpath,
New Delhi.
 4. Superintendent ASI,
Delhi Circle,
Safdarjung Tomb,
New Delhi.
- ... Respondents.

By Advocate Shri M.K. Gaur, proxy counsel for Shri R.P. Aggarwal.

D.A. 514/22

1. Shri Suresh Kumar,
2. Smt. Dulari,
3. Smt. Parvati,
4. Smt. Sarbati,
5. Smt. Rani,
6. Smt. Kamlesh,
7. Smt. Pan Kumari,
8. Sh. Rakesh Kumar,
9. Sh. Surinder Singh,
10. Sh. Om Prakash,
11. Smt. Angoori,
12. Smt. Jashoda,
13. Sh. Vishal Singh,
14. Sh. Talevar,
15. Sh. Rajesh Kumar.

(29)

16. Sh. Bishan Singh
17. Sh. Subash Chand
18. Smt. Ashrafi
19. Sh. Rohtas
20. Sh. Babulal
21. Smt. Maya
22. Smt. Sumitra Devi
23. Sh. Tej Pal
24. Sh. Sher Bahadur
25. Sh. Paras Nath
26. Sh. Roop Chand
27. Smt. Phoola Devi
28. Sh. Nathu Ram
29. Sh. Chander Veer
30. Sh. Babu Ram
31. Sh. Babu Lal
32. Sh. Eshwar Singh
33. Sh. Kishan
34. Smt. Satya Prabha

All C/O Shri Suresh Kumar, S/o Shri Ramji Lal, R/o House No.D-45
Mathura Road, New Delhi.

By Advocate Dr. Surat Singh with Shri Pradeep Kumar.
Versus

1. Secretary
Department of Culture
Ministry of Human Resources and
Development
Shastri Bhawan
New Delhi
2. Joint Secretary
Department of Ministry of Human Resources
And Development
Shastri Bhavan
New Delhi

By Advocate Shri M K Gaur proxy for Shri R.P. Aggarwal.

ORDER (Oral)

Hon'ble Smt. Lakshmi Swaminathan, Member(I),

Both the learned counsel submit that as the facts and issues in the aforesaid two Original Applications are identical, so they have been taken up for hearing together and are also being disposed of by a common order.

2. The applicants state that they have been working with the respondents for a number of years, some as much as 10 years yet their services have not been regularised. According to them, all of them have been granted temporary status in 1993 in pursuance of the earlier directions of the Tribunal in O.A. 1290/89 decided on 5.2.1993 (Annexure A-2). Dr. Surat Singh, learned counsel has submitted that in spite of having been conferred with the "temporary status" in terms of the DOP&T Scheme which came into force w.e.f. 1.9.1993, nothing further has been done by way of regularisation of their services against the posts of Group 'D'. With regard to the prayer for a direction to pay the applicants' arrears and consequential benefits in terms of the recommendations of the 5th Pay Commission due from 1.1.1996, learned counsel has submitted that during the pendency of these O.As, the same have been paid. With regard to a direction to the respondents to pay the applicants, as is being paid to the regular employees by way of 'equal pay for equal work' from the very date of joining the job, this claim is untenable because admittedly the applicants are governed by the aforesaid Scheme and there is no dispute that they have been paid in terms and conditions of that Scheme. This claim, therefore, also does not survive. During hearing, it was stated that the arrears of pay in terms of the

recommendations of the 5th Pay Commission have also been paid in accordance with the Rules and instructions and that claim also does not survive. (31)

3. The respondents in their reply have submitted that they have complied with the orders of the Tribunal in O.A. 1290/89 by granting "temporary status" to the applicants as and when they became eligible for this benefit. They have further submitted that they had constituted an Expert Committee in pursuance of the directions of the Tribunal dated 7.10.1994 in CP 117/94 in O.A. 1290/89. This Committee has recommended that out of 53 posts only 46 posts (25 Sweepers and 21 Beldar/Cooli) Group 'D' are to be filled in accordance with the rules and instructions on the subject and they have already initiated necessary action in this regard. They have, therefore, submitted that only 57 posts of Group 'C' and 'D' have been created as per the recommendations of the Expert Committee and they are considering the claims of 389 casual labourers who have been conferred temporary status and they will regularise these people in due course. Dr. Surat Singh, learned counsel has, however, submitted that the number of posts which the respondents have stated is far too less and it is evident from the fact that they have employed several hundred casual labourers and the need is for far more number of posts. He has also submitted that even by the order dated 28.1.1999 the respondents have granted annual increments to as many as 320 daily wage casual labourers with temporary status, which includes the applicants (Annexure PR-1 to rejoinder filed in O.A. 514/99). Therefore, the learned counsel for the applicants has submitted that a direction may be given to the respondents to reconsider the whole issue and to take steps for creation of more posts so

82

that a large number of the applicants could be regularised in their service in those posts who are still continuing to work with them.

4. From the facts mentioned above, it is seen that the respondents have granted temporary status to a much larger number of casual labourers than the posts which they have created as Group 'D' against which they could be regularised later on. *Prima facie*, therefore, there appears to be an imbalance in the number of persons working on temporary status basis as casual workers in terms of the aforesaid Scheme who could be considered for regularisation in Group 'D' posts also under the Scheme. It is, therefore, for the respondents to reconsider the whole issue and if necessary obtain the sanction from the competent authorities for creation of more posts in Group 'D' as it appears from the reply itself that they are, in fact, employing several hundreds of casual labourers who are required for discharge of their responsibilities.

5. The aforesaid O.As (O.A.429/99 and O.A.514/99) are accordingly disposed of with a direction to the respondents to re-consider whether more posts in Group 'D' should not be created in their office, taking into account the facts and circumstances so that the DOP&T Scheme dated 10.9.1993 is more effectively implemented. No order as to costs.

6. Let a copy of this order be kept in O.A.514/99.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'