

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

(12)

O.A. No. 513/99

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T.A. No.

DATE OF DECISION 31-7-2000  
31-7-2000

Sukh Singh Sardar Singh and Ors...Petitioners

Ms. Anu Mehta

....Advocate for the  
Petitioner(s)

VERSUS

UOI & ORS

....Respondent

Sh. R. P. Aggarwal

....Advocate for the  
Respondents.

ORAL

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

1. To be referred to the Reporter or not Yes
2. Whether it needs to be circulated to other  
Benches of the Tribunal B.

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

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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO.513/99

New Delhi, this the 31st day of July, 2000.

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. Sardar Singh, S/O Jai Lal, R/O Village Mohammedupur, Najaf Garh, New Delhi.
2. Ram Prasad, S/O Banuram, R/o Jhuggti No.18,Near Delhi High Court, Shershah Road, New Delhi.
3. Ramjad, S/o Vikanu Ram, R/o House No. 36/11, New Delhi.
4. Sukhydeen, S/o Lakshmi Ram,R/o C-22/T,Camps. New Delhi.
5. Kishan Pal, S/o Prahalad, R/o Village & P.O. Alavalpur, Tehsil Palwal, District Faridabad, Haryana.
6. Makhan Lal, S/o Laxman, R/o T.Camp, C/21, Kicharipur, New Delhi

.....Applicants  
(By Advocate: Ms. Anu Mehta)

Versus

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

....Respondents  
(By Advocate: Sh. R.P. Aggarwal)

ORDER (Oral)

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

The applicants six in number, have filed this application challenging certain actions/non-actions of  
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the respondents in not regularising them as Mason even though they have been working in that capacity for over 10 years as casual labourers.

2. The present applicants were among 58 persons who had earlier filed an application (OA 1290/89) in the Tribunal which was disposed of by order dated 5.2.1993 (Annexure A-2). Thereafter, they had filed CP 117/94, which was disposed of with certain observations by order dated 7.10.94 (Annexure P-3). The respondents were directed to appoint an Expert Committee to assess the requirements of the workers in the various trades in which the applicants were engaged in order to ensure that as many regular jobs as required are created. Ms. Anu Mehta, learned counsel has submitted that since the applicants who have been working as Masons with the respondents, have been continuing in that post on casual basis for more than 10 years, there is no doubt that the respondents require their services. Her contention is that in terms of the previous orders passed by the Tribunal in OA 1290/89, the respondents should have taken necessary action to create the number of posts in various trades and thereafter regularise the applicants, which has not been done. Hence, the present O.A. in which prayer has been made for issuance of a writ of mandamus or any writ of like nature to direct the respondents to take steps to regularise the services of the applicants in the posts on which they have been working, i.e. as Masons. Learned counsel has also submitted that as they are being engaged on daily wages as casual labourers, the

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payments received by them are less than those of regular employees who get regular pay in Group 'C' scales. She has prayed that in the circumstances of the case as the respondents have not cared to make a realistic assessment of the persons required in various trades as already ordered by the Tribunal in 1993-94, the same may be done with a direction to the respondents to complete this exercise in a short time, if possible within one month.

3. I have seen the reply filed by the respondents and also heard Sh. R.P. Aggarwal, learned counsel. According to the respondents, the applicants have not exhausted the available Departmental remedies before approaching the Tribunal. Sh. R.P. Aggarwal, learned counsel has also submitted that the applicants who are Mesons/Mistries have not been conferred Temporary Status, as the DOP&T Scheme dated 10.9.93 is not applicable to them, but only applicable to Group 'D' employees. He has also relied on the orders passed by the Tribunal dated 16.2.2000 in R.P. Mandal and Ors. Vs. Secretary, Department of Culture and Ors. (OA 429/99 with connected case) copy placed on record. He has submitted that two posts of Mason, as referred to in the Memorandum dated 13.12.97, have still not been filled, but the respondents shall take suitable action to fill these two posts in accordance with the rules and instructions.

4. I have carefully considered the pleadings and submissions made by the learned counsel for the parties.

5. The contention of the respondents is that the DOP&T Scheme dated 10.9.93 is not applicable to Group 'C'

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posts. However, in the light of the Tribunal's orders dated 5.2.93 in OA 1290/89 read with the orders dated 7.10.94 in CP 117/94, it is clear that the respondents were to consider the requirements of workers "in the various grades" in which the applicants were engaged so as to ensure that they may be accommodated in regular jobs. For this purpose, they had been directed to appoint an Expert Committee to look into the various aspects of the matter, including the possibility of creation of the required number of posts and relaxation of the rules and so on. It is distressing to note that even after the Memorandum dated 13.12.97 was issued by the respondents where it is mentioned that two posts have been created for Masons that none of the persons who are eligible and qualified have been considered by them for regular appointment even till today. In this view of the matter there is force in the submission made by Ms. Anu Mehta, learned counsel for the applicants that the respondents have indeed delayed the matter beyond reasonable time by exploiting the applicants. The present applicants have been forced to file this application as the required steps have not been taken by the respondents to ensure that as many of the applicants in OA 1290/89 are given regular job as required by them in the posts which were to be created.

6. In the facts and circumstances of the case, respondents are directed to consider the claim of the applicants for regularisation in the posts of Mason in accordance with law, subject to the observations given by the Tribunal in OA 1290/89 and CP 117/94. The

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respondents shall also consider the issue of creation of further number of posts in Group 'C' taking into account the facts alleged by the applicants that they have continued to employ them in Group 'C' posts as Masons for more than 10 years. This shall be done within a period of three months from the date of receipt of a copy of this order. Thereafter they shall forthwith consider all the applicants, who are eligible for regularisation in Group 'C', posts as Mason in accordance with the relevant law and rules. No order as to costs.

*Lakshmi Swaminathan*

(Mrs. Lakshmi Swaminathan)  
Member (J)

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