Central Administrative Tribunal
Principal Bench

O.A. 521/99,
O.A.2154/99,
O.A.2163/99,
AND
O.A.2350/99~

New Delhi this the 28th day of November, 2000

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

1. O.A.521/99

Ashok Kumar Dixit,
R/o C-109, Krishi Vihar,
New Delhi. ... Applicant.

(By Advocate Shri T.C. Aggarwal)

Versus

Union of India through

1. The Secretary,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi.

2. The Secretary,
Indian Council of Agriculture
Research, Krishi Bhawan,
New Delhi. ... Respondents.

(By Advocate Shri Ashok Kashyap)

2. O.A.2154/99

Shri Sunil,
S/o Shri Om Prakash,
R/o H.No. 10794, Gali No.7,
Sant Nagar, Karol Bagh,
Delhi. ... Applicant.

(By Advocate Shri T.C. Aggarwal)

Versus

Union of India through

1. The Secretary,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi.

2. The Secretary,
Indian Council of Agriculture
Research, Krishi Bhawan,
New Delhi. ... Respondents.

(By Advocate Shri Ashok Kashyap)

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3. O.A.2163/99

1. Shri Hari Om,
S/o Shri Rameshwar,
R/o R-681, Avantila,
Rohini, Sector-I,
New Delhi.

2. Shri Krishan Kumar,
S/o Shri Rameshwar,
R/o B-681, Avantika, Rohini,
Sector-I, New Delhi. ... Applicants.

(By Advocate Shri T.C. Aggarwal)

Versus

Union of India through

1. The Secretary,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi.

2. The Secretary,
Indian Council of Agriculture
Research, Krishi Bhawan,
New Delhi. ... Respondents.

(By Advocate Shri Ashok Kashyap)

4. O.A.2350/99

Shri Raju, son of
Shri Prem Singh,
R/o D-2, Krishi Vihar, Masjid
Moth, New Delhi. ... Applicant.

(By Advocate Shri T.C. Aggarwal)

Versus

Union of India through

1. The Secretary,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi.

2. The Secretary,
Indian Council of Agriculture
Research, Krishi Bhawan,
New Delhi. ... Respondents.

(By Advocate Shri Ashok Kashyap)

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ORDER (ORAL)

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

The above referred four O.As have been taken up together for consideration as per the submissions made by the learned counsel for the parties. Learned counsel have submitted that the relevant facts and issues raised in these four applications are similar. However, for the sake of convenience, the facts in **Sunil Vs. Union of India & Anr.** (OA 2154/99) have been referred to. These four applications are being disposed of by a common order.

2. The brief relevant facts of the case in OA 2154/99 are that the applicant is aggrieved by the discharge of his service as a casual worker by verbal order dated 24.7.1998 issued by the respondents. According to him, he has been working as a casual worker through the Employment Exchange, although it is noticed that no date of engagement has been ~~made~~ given by the applicant in the O.A. His grievance is that after the impugned order of disengagement was issued by the respondents on 24.7.1998 and subsequently the work became available, the respondents have chosen to continue their favourites, relatives and friends in the Organisation, while ignoring his claim. Shri T.C. Aggarwal, learned counsel has relied on the Tribunal's order dated 17.9.1999 in **Yogesh Kumar Vs. Union of India & Anr.** (OA 517/99) (copy placed on record). In pursuance of the Tribunal's order, the respondents have issued a seniority list for Water Boys/ Unskilled Labourers as on 31.10.1999 and another seniority list of casual labourers of the same date who were engaged

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to work as Messengers (Annexure 'H'). Learned counsel for the applicants has vehemently submitted that the respondents have re-engaged/continued a batch of about 17 casual workers who had been initially engaged for a period of 89 days, who, according to him, have been engaged later than the applicant. He has also submitted that they are also casual labourers like the applicant and his claim for re-engagement over these 17 persons is established because he had been engaged from a prior date. It is, however, relevant to note that the date when the applicant had been engaged as a casual labourer by the respondents has not been categorically stated by the applicant in the OA. He submits that the applicant, Shri Sunil, had been engaged from 1998 although in the seniority list prepared by the respondents in pursuance of the aforesaid order of the Tribunal, he is shown as having been engaged in 1996, whereas the applicant Shri Yogesh Kumar in OA 517/99 is shown as having been engaged in 1995. It is not disputed that Shri Yogesh Kumar has been re-engaged as a casual labourer on a vacancy arising due to one of the 17 persons, who is no longer continuing as a casual labourer. During the hearing, learned counsel for the applicants has submitted that he does not challenge the validity of the seniority list prepared by the respondents in pursuance of the directions given by the Tribunal in OA 517/99. However, he has vehemently submitted that the respondents have acted in an illegal and arbitrary manner by retaining the friends and relatives of the officers in the Organisation and thereby, ignoring the applicants' claims. On a careful perusal of the pleadings and the submissions made by the learned counsel, I am unable to agree with the contentions of the learned counsel for the applicants, as

nothing has been brought on record to substantiate this averment. As mentioned above, Shri Yogesh Kumar, applicant in OA 517/99 has been shown at Serial No.4, while applicant Shri Sunil in OA 2154/99 at Serial No. 6, in the seniority of Water Boys/Unskilled Labourers.

3. Shri Ashok Kashyap, learned counsel for the respondents has taken a preliminary objection that the aforesaid O.As are barred by limitation as according to the applicant's own averments they have been dis-engaged as casual labourers in 1996 and 1998 whereas the O.As have been filed in 1999. He has relied on the judgement of the Full Bench in **Mahabir Vs. Union of India** (OA 706/96 with connected cases), decided on 10.5.2000. In OA 2145/99, the applicant, Shri Sunil, has stated that he has been appointed after due selection through Employment Exchange on 27.4.1998 and disengaged by verbal order on 24.7.1998 which means that he has put in service of about three months. The O.A. has been filed on 1.10.1999 even without making a representation to the respondents in terms of Section 20 of the Administrative Tribunals Act, 1985. Reliance placed by the learned counsel for the applicant on the seniority panel issued by the respondents and at the same time challenging the same cannot be accepted. Even if the plea of limitation taken by the respondents is not accepted in the circumstances of the case, I find no merit in this application. The respondents have submitted that there were two categories of Daily Paid Labourers (DPLs) whom they were engaging in the past, namely, Water Boys and Mistries which practice had continued for a number of years. They have also submitted that no seniority list was maintained of the DPLs in the

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past. Shri Ashok Kashyap, learned counsel has drawn my attention to the letters dated 10.9.1998, 15.10.1998, 20.4.1998 and 21.4.1998) (Annexures A,B, C and D) respectively. He has submitted that in the past the practice adopted by the respondents was that for engagement of Water Boys for filling water coolers, no educational qualifications were prescribed whereas in the case of DPLs, the minimum qualification was 8th class pass. The applicants in the aforesaid cases were engaged on a seasonal basis for pouring water in the water coolers. Later, the respondents have taken a policy decision from March, 1998 that no Water Boys would be engaged for this purpose but the entire work of supplying, maintenance, servicing and pouring water in the coolers was given to an independent contractor after calling for tenders. Learned counsel has submitted that the judgement of the Tribunal in A.R. **Karsanbhai Vs. Union of India & Ors.** (1996(33) ATC 93) would not be applicable to the facts of the present case, as the work is not of a perennial nature and is purely seasonal character and the entire work has been given to one agency. Learned counsel has also clarified that the 17 other DPLs with whom the applicant compares himself are not in the same category, as they were engaged as casual labourers/Messengers, who were required to have 8th class pass as educational qualification. He has submitted that the requisitions for these two types of DPLs have also been sent to separate Employment Exchanges, namely, Kamla Market for Water Boys and Kirbi place for Messengers. The applicants have been earlier recruited through the Employment Exchange at Kamla Market. He has, therefore, submitted that in the facts and circumstances of the case and taking into account the

earlier decision taken by the respondents which has not been challenged by the applicants, there is no merit in the O.As. His contention is that the applicants in the aforesaid four applications cannot compare themselves with the DPLs/Messengers who were among the 17 casual labourers.

4. Learned counsel for the applicants has countered the above submissions of the learned counsel for the respondents on the ground that they cannot make such a distinction between the DPLs. He has relied on the letter of the respondents dated 11.1.1999, relevant portion of which reads as follows:

> "This has reference to your representation dated 07.12.98 a copy of which was also addressed to the Hon'ble Prime Minister of India requesting for cancellation of the selection of 17 Daily Paid Labourers under the ICAR Hqrs. The same has been examined and I have been directed to inform you that the Daily Paid Labourers were selected by a prescribed Selection Committee out of the eligible candidates from the list of names sponsored by the Employment Exchange in Daily Paid Labourers work. They have since been engaged for work as DPL at the prescribed rates for a period of 89 days at this instant. Their further engagement or disengagement will depend solely upon the actual requirement of work. It is not correct to say as referred to in your representation that they are selected to the posts of Casual Labourers (Peons). No such selections for such a post have been made".

5. From the language of the letter quoted above, I am unable to agree with the contention of the learned counsel for the applicants that the respondents have agreed that 17 persons in question are not casual labourers, as what has been stated in that letter is that they have not been selected to the post of casual labourers/peons. The contention of Shri T.C. Aggarwal, learned counsel for the applicants that the respondents

have failed to re-engage the applicants because they have not been called through the Employment Exchange is also not borne out by the documents on record. It is relevant to note that in the aforesaid seniority list prepared by the respondents, the names of the applicants have not been omitted but they cannot have a claim for re-engagement prior to those who have been engaged earlier than them or who have put in a large number of days service during the relevant period. I have also considered the other submissions made by the learned counsel for the applicants but do not find any merit in the same.

6. In the result, having regard to the discussion above, I find no merit in these applications. O.A. 521/99, O.A. 2154/99, O.A.2163/99 and O.A.2350/99 are dismissed. No order as to costs.

7. Let a copy of this order be placed in each of the files.

(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'