

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

O.A. No. 2155 of 1998 decided on 14.12.1998.

Name of Applicant : Sh. D. S. Rawat and ors.

By Advocate : Shri S. Y. Khan

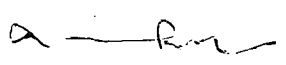
Versus

Name of respondent/s Union of India through
Secy., Min. of I&B & others

Coram:

Hon'ble Mr. N. Sahu, Member (Admnv)

1. To be referred to the reporter - Yes/~~No~~
2. Whether to be circulated to the other Benches of the Tribunal. - ~~Yes~~/No


(N. Sahu)
Member (Admnv)
14.12.98

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A. No. 2155/98

New Delhi, this the 14th day of December, 1998

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HON'BLE MR. N. SAHU, MEMBER (A)

1. Shri D.S. Rawat, S/o Shri B.S. Rawat,
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2. Shri C.D. Yadav, S/o Shri Toofani Yadav,
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3. Shri Ranjeet Singh S/o Shri Rai Singh
Section Accounts, Address 200.D-4,
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Ganj, New Delhi-55.
4. Shri Shiv Ganesh S/o Shri Hav
Sharan, Section-Photostat/General,
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Hazipur, Post Loni, Ghaziabad, U.P.
5. Shri Ganesh Nath S/o Shri Navdeep Nath,
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6. Shri Satender Ku. S/o Shri Ram
Swaroop, Section Duty Room, Address -HO
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7. Shri Rakesh Ku. S/o Shri Rama Nand,
Section -Reception, Address -176/D-I,
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Ganj, New Delhi-55.
8. Shri Bharat Ku. S/o Shri Chhottee Lal,
Section -DDA, Address- 629, Kalyan Vas,
New Delhi-91.
9. Shri Narain Dass S/o Shri Bhjma Rao,
Section -Cash, Address. H.No. 99, Naya
Bass Gali, Masjid Taiber Khan, Delhi-6.
10. Shri Amika Prasad S/o Shri Birju Ram,
Address- 33/331, Tirlok Puri, Delhi.
11. Shri Ghanshyam Singh S/o Sh. Late
Pratap Singh, Section -DDG, Address
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12. Shri Mahipal Singh S/o Shri Ramesh
Chand, Section-PEX(CO), Address-
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13. Shri Makhan Lal S/o Shri Samay Singh,
Section-Music (Shri K. Dutt
E.P.), Address- Village Rajokori, New
Delhi-110038.

14. Shri Raj Ku. S/o Shri Kamal Singh,
Section-Drama, (Shri G.S.), Address -
H.N. 9/17, Gali No. 5, Ambedkar Basti,
Mayapuri, Delhi-53.
15. Shri Rajpal Singh S/o Sh. Ramkishan,
Section-Commercial Cell/ Library,
Address- J-766, Jahangir Puri,
Delhi-33.
16. Shri Krishan Singh S/o Shri Shanker
Singh, Section SGE, Address R.Z., B-16A,
Jai Vihar, Najafgarh, New Delhi-43.
17. Sh. Mahesh Chand S/o Shri Ram,
Address Tirlokpur, H.No. 29/457, New
Delhi-91.
18. Sh. H.C. Tiwari, S/o Shri Tirlochan T.,
Section ARO, Address- I-47, Water
Supply Colony, Dhallu Pura, Delhi-91.
19. Shri Mohan S/o Shri Bal Kishan Pathak,
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Vihar, Sector-7, New Delhi-17.
20. Sh. Chait Singh, S/o Shri Ranjeet
Singh, Section-BCN.46, Address- S-76-A,
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21. Sh. Kheema Nand S/o Late Sh. Bachi
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Puram, New Delhi-22.
22. Sh. Amresh Kumar S/o Sh. Gurucharan,
Section-St. I&IV, Address -13/491,
Kalyan Puri, Delhi-51
23. Sh. Manoj Kumar s/o Sh. Durga Prasad,
Section-METRO, Address-B-455, Soniya
Vihar, Delhi-94
24. Sh. Ombir Singh S/o Shri Babu Ram,
Section-EP, Address- H.No. 228, Gali
No. 2, Indra Puri Colony, District
Ghaziabad.
25. Sh. Ramjeet Pal, S/o Sh. Devi Prasad,
Section- MSR, Address-E-2, Sec. 24,
Rohini, Delhi-85.
26. Sh. Ashok Kumar S/o Sh. Barhma Nand,
Section-Camera Unit, Address-A-221,
Sultan Puri, Delhi-41.
27. Sh. Laxman Singh S/o Shri Raghubir
Singh, Section-Duty Room,
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28. Sh.Kamal S/o Shri Prakash Chand,
Section Duty Room, Address- WZ-26,
Choukhandi Vill.Tilak Ngr, New
Delhi-18.
29. Sh.Balbir Singh S/o Sh.Ram Swaroop
Singh, Section -Morning Cell,
Address-Block No.9, Qtr.100, Type-I,
Mandir Marg, New Delhi.
30. Shri Lal Singh S/o Shri Ram Roop,
Section Insat.
31. Smt.Ramwati W/o Shri Prem Pal, Section
DDP (BC).
32. Anand Swaroop, S/o Sh.Manoo Singh,
Section VTR.MTC, Address- Jeet Pur,
Rawali Road, Gali No.1, Murad Ngr, Gzd.
33. Sant Lal S/o Sh.Ram Ganesh, Section
-Eng.Store, Address-F-47, Rama Park,
Siras Pur, Delhi-42.
34. Balwan Singh S/o Shri Jogi Ram,
Section-General, Address-A-200, Lal
Qtr.Panjabi Bagh, New Delhi-26.
35. Narpal Singh Negi S/o Sh.Ludher Singh
Negi, Section Presentation,
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36. Hukam Singh S/o Shri Sukhi Ram,
Section-Hindi. Address- 18, Aliganj,
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37. Rakesh Kumar S/o Shri Kailash Narayan,
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38. Sh.Ramesh Kr.Madhukar, Section-Duty
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Delhi-91,
39. Sh.Sunil Kumar-II S/o Sh.Mahavir
Prasad, Section-STV, Address-
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Gandhi Nagar, Delhi-31.
40. Devi Dass S/o Sh.Mohan Dass,
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210, Seva Nagar, J.J.Colony, New
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41. Lal Chand S/o Sh.Sohan Pal,
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Road, Near Mamla Market, Police
Station, New Delhi.
42. Satpal S/o Sh.Dev Karan, Section-EP,
Address- Ashram N.Delhi-14

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43. Anwar Hussain S/o Sh. Athar Hussain,
Section Duty Room, Address- Jafrabad,
Seelampur, Delhi
44. Harbir Singh S/o Shri Mehanty,
Section-DDP, Address-Vill. Ahera, PO
Bagpat, Distt. Bagpat.
45. Surender Singh S/o Shri Ishwar Singh,
Section-DDO, Address- Vill. Bharthal,
ND-45
46. Sh. Faily Ram S/o Sh. Sampat Ram,
Section-ENG. Address- C-II, Plot
No. 128, Mohan Garden, ND-59.
47. Ashok Kumar S/o Sh. Ram Kumar, Section
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Delhi-110034
48. Sunil Kumar S/o Sh. Lal Chand,
Address-H.No. C-2, 205, Yamuna Vihar,
Delhi-53
49. Navinder Kumar S/o Sh. Gouri Dayal,
Section ADC(MK), Address- 76-C/DIZ
Area, Sector -4, Raja Bazar, New
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50. Ajay Kumar S/o Shri Yadram, Section
ADC (DNM), Address-J-29 B, Mohan
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51. Goutam Karmakar S/o Shri A.R. Karmakar,
Section AD(KMR), Address-WZ-1528-C,
Nangal Raya, New Delhi-46
52. Ram Kumar S/o Shri Jagdish Singh,
Section -AD(JC), Address- c/o Kishan
Lal, WZ-13, Choukhandi, Tilak Ngr. New
Delhi-18.
53. G. Jayakar Rao S/o Sh. G. Anandam,
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54. Ramkishan S/o Shri Ram Raj,
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55. Raj Kumar Nag S/o Late Sh. Ramesh Kr.,
Section Sr. AO, Address-5/11, 12, Tirlok
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56. Birender Kumar S/o Late Shri Salvke,
Section- News Room, Address-126, Seevam
Enclave, Part-II, Kakardla Rd, New
Delhi-43.
57. Rameshwar S/o Shri Dharam Singh,
Section- News Room, Address- L-II,
30/A, Mohan Garden, New Delhi-59

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58. Ganga Bahadur, S/o Shri Leel Bahadur,
Section Library, Address- H.No.1867, E
Block, Jahangir Puri, Delhi-33
59. Aditya Kumar Juyal S/o Sh.Ramesh Chand
Juyal, Section-News Room, Address
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60. Hari Kishan S/o Late Sh.Parhlad Singh,
Section-News Desk, Address- CPJ, 1/59,
New Seclam, PVR-I, Delhi-53
61. Praveen Kumar Verma S/o Sh.Vasudev
Verma, Section-News Desk, Address -
12-A/59, Gali No.2, Vijaya Mohalla,
Maya Puri, Delhi-53.
62. Rajinder Singh S/o Shri Ram Diya,
Section-Reporting, Address-A-11, Yadav
Nagar, Samapur, Delhi-42.
63. Gopal Babu S/o Sh.Billori Lal,
Section-ADJ, AddressShiv Market,
Khichari Pur, Delhi-91

-APPLICANTS

(By Advocate:Sh.S.Y.Khan assisted by
Sh.T.C.Aggarwal)

Versus

Union of India

- 1.The Secretary, Ministry of I&B,Shastri
Bhawan New Delhi.
- 2.The Secretary, Department of Personnel &
Training, North Block,New Delhi.
- 3.Director General,Doordarshan, Mandi
House,New Delhi.
- 4.Deputy Director General, Doordarshan,New
Delhi.

-RESPONDENTS

(By Advocate: None)

O R D E R

HON'BLE MR.N. SAHU, MEMBER(A)

The applicants in this O.A. have prayed to
quash the impugned study report and to regularise their
services forthwith with all benefits available to
temporary Government servants.

[Handwritten signature]

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2. 62 applicants have filed this petition. It is stated that OAs were filed before the Principal Bench and disposed of by a Division Bench on 26.4.91 under the title "Shri Rameshwar & another vs. UOI". A number of OAs were disposed of on 26.4.91. The principles laid down in these OAs are as under:-

- (i) Although casual labour is not entitled to protection under Article 311 of the Constitution, they are entitled to protection under Articles 14 and 16 and cannot be treated arbitrarily.
- (ii) The respondents cannot engage and dismiss casual labour arbitrarily after every 90 days.
- (iii) A direction was given to regularise the applicants in that case and not to engage any fresh incumbent till their regularisation.
- (iv) Minimum pay as given to a regular group 'D' employee, was directed to be given to the applicants till regularisation.

3. Subsequently another O.A. No.2556/96 was filed and disposed of by Hon'ble Single Member by order dated 3.10.97. The operative portion of that order is as under:-

"In the light of the above discussion, I partly allow this O.A. and dispose it of with a direction to respondents to undertake SIU study of the establishment and to complete the same within four months from the date of receipt of a copy of this order. The new posts may be created within a period of two months thereafter. If the respondents fail to complete this exercise within six months, they will regularise the services of the applicants by creating the necessary supernumerary posts."

4. In accordance with the directions of the Tribunal, respondents have conducted the study report which is impugned in this O.A. This study report is at

Order

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Annexure A-1. It recommended 143 posts in various Heads of group 'D' staff. The crux of the study report is as under:-

"As already stated, the existing Group D staff strength at DDK, Delhi is 199: 140 regular sanctioned posts and 59 persons engaged over and above the sanctioned staff strength. The report, if implemented, would result into the economy of as many as 56 Group D employees at the Kendra. The team recommend that the services of Group D staff members belonging to different categories be utilised in such a manner that the requirements of all the Wings are met to the maximum extent. In the event of necessity the incumbents' spare capacity in one Wing may be utilised against other category.

On an average the monthly expenditure incurred per head in the category of Group D is Rs.4,500/- p.m. The reduction of 56 in the number of incumbency would result in a direct saving of Rs.30.24 lakhs per annum (approximately)."

This report is impugned.

5. I have carefully considered the submissions. The study report by the Staff Inspection Unit recommending a certain staff for absorption cannot be challenged in a court of law. The settled law on the subject is that creation and abolition of posts is in the sovereign discretion of the Government. No court can have any say in that matter. Creation of post involves financial implications. Considerations of economy and savings are uppermost in the mind of the Government. The Govt. can reduce or increase strength of its workforce in any cadre after taking into account the dictates of public interest and financial constraints. This Tribunal has already directed a study report on the need for further increasing the posts. The recommendations in the study report have to be taken

(11)

and considered by the Govt. The correctness of the said study report is not justiciable. Staff Inspection teams are set up in every Wing of the Government. It is very active in the Finance Ministry. One contention of the applicant is that the designated study team is not similar to what is set up by the Finance Ministry. The applicant further states that the norm applied by the S.I.U. has not been applied by the study team.

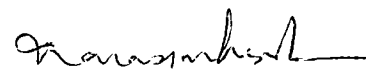
6. The S.I.U. is not a constitutional body. It is not set up by a statute. It is a departmental creation. Every department can create its own study team. There are already general guidelines by the Govt. from time to time on creation of posts. There is nothing wrong if the study unit has considered the interests of economy and recommended only 143 posts under various cadres.

7. The grievance of the applicant is that while hundreds of persons were awaiting in the Wings with a large number of years of service, the study team has recommended for creation of only 273 posts resulting in absorption of a similar number of persons. I don't think that a court can issue a writ directing creation of posts. The law is settled in this regard. As far as casual labour is concerned, the existing schemes only ensure temporary status and certain benefits. There is no scheme or law which mandates that posts also should be created and casual labour should be absorbed. The Hon'ble Supreme Court, earlier, in certain cases, no doubt directed the departments to regularise casual labour under certain circumstances. Those conditions

and situations do not replicate in every other department. The Government is the sole authority to decide how many posts be created and how many posts be abolished. The Fifth Pay Commission has recommended that a certain percentage of the posts be reduced. The Government, may in its wisdom, reduce the posts in the larger interest of economy. The courts cannot restrain the Government from such an exercise or direct the Government to absorb persons simply because they worked for a long period as casual labour and have also obtained temporary status.

8. I do not find any merit in this O.A. If the respondents have not complied with the orders of the Tribunal, they are free to enforce the said orders by filing a Contempt Petition.

9. The O.A. is dismissed at the admission stage. No costs.


(N. Sahu) 14.12.98
Member (A)

/dinesh/