

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2295 of 1998

New Delhi, this the 15th day of November, 1999

HON'BLE MR. KULDIP SINGH, MEMBER(JUDL)

1. Manoj Kumar
 Son of Shri Radhey Shyam
 C/o Shri Vidhya Bhan
 C-14, Guru Nanak Pura,
 Shakarpur, New Delhi

2. Mahender Kumar
 Son of Shri Devi Dass
 R/o D/184, DDA Flats,
 Kalkaji, New Delhi

3. Promod Paswan
 Son of Shri Inderdev Paswan
 R/o 2658, Sector-2, Type-I
 Sadiq Nagar, New Delhi

... Applicants

(By Advocate: Shri Sunil Malhotra)

Versus

Union of India
 Ministry of Agriculture
 Through the Principal Accounts Officer (Sectt)
 16-A, Akbar Road, Hutmants
 New Delhi-110011

... Respondent

(By Advocate: Shri V.S.R. Krishna)

O R D E RBy Hon'ble Mr. Kuldip Singh, Member (Judl)

This O.A. has been filed jointly by three applicants who had been working as casual labours with the respondents. Applicant no. 1 has worked for about 464 days whereas applicants no. 2&3, both have worked for about 604 days with intermittent breaks. All these applicants have prayed that since regular work is available with the respondents, they should be directed to regularise their services against the existing vacancies or in any other vacancies which may arise during the pendency of this OA. It is also stated that the breaks given to the applicants during the period when they were working, were artificial breaks and were given

/kml

on the false pretext of non-availability of work though the work was available.

2. The respondents have contested the petition.

They have stated that the applicants were engaged by them for specific purposes through Zonal Employment Office and their employment automatically ceases on the expiry of the period of engagement. They have further stated that since the applicants were engaged on daily rate basis, they do not deserve employment against the regular vacancies. The respondents also denied about the actual period of working of the applicants, as alleged by them.

It is further stated that the engagement of daily rated workers was on the basis of seasonal and intermittent nature of work for short durations and they were never appointed against the regular vacancies. It is also stated that there are only three vacancies of Group 'D' staff in their office and even those vacancies had occurred due to promotion during their period of employment. It is stated that no daily rated worker has been employed after the disengagement of the applicants. It is also denied that any worker has been engaged through a contractor, as alleged by the applicants. Besides this, the respondents have submitted that this O.A. is hit by the principles of res judicata as the applicants had earlier also filed an OA on the similar lines which had been decided by the Tribunal vide order dated 17.3.98 with the direction that in the event the respondents will be engaging casual labour in future, they should consider the case of the applicants in preference to freshers and outsiders.

kw

3. I have heard the learned counsel for the parties and gone through the record.

4. The main plea of the applicants is that since there are regular vacancies available, they should be regularised. They insisted that since the work available with the respondents is of perennial nature so having rendered service for sufficient long period, they have a case for being regularised against any of the vacancies available with the respondents. On the contrary, there is a clear denial by the respondents that there is no vacancy existing and there is no question of their regularisation.

5. To my mind, as far as providing of job/work to the applicants is concerned, I find that the orders passed by the Tribunal on the earlier OA filed by the applicants, takes care of the fact that if and when the work is available, the respondents shall engage the applicants in preference to freshers and outsiders.

6. As far as regularisation of the applicants is concerned, I find from the pleadings in para 4.8 of the OA where the applicants have alleged that there are three vacancies existing in the cadre of peons which are to be filled up through direct recruitment and the respondents had written a letter to the Asstt. Employment Officer, Curzon Road, in this regard. The applicants had also made representations dated 18.4.98 and 7.8.98 for appointment against those vacancies. In reply to this, the respondents at para 4.7 of their counter, admitted

that during the period in question, seven daily rated workers were engaged whereas the office had only three vacancies of Group 'D' staff. Even those vacancies had occurred due to promotion during the period of employment of the applicants. But the respondents are silent about the fact alleged by the applicants that they had written a letter to the Employment Officer for sponsoring the candidates for filing these vacancies. In these circumstances, if at all, any vacancy is to be filled up by the respondents through the Employment Exchange, then to my mind the applicants also have a right to be considered for getting employment against those vacancies as per rules and instructions on the subject.

7. I therefore order that till the applicants are regularised, if any work is available of the casual nature, then the applicants shall be considered in preference to freshers and outsiders as ordered earlier in O.A.No.1898/97. I further direct that in case the respondents are going to make any regular appointment for which the applicants are also eligible, then the respondents shall consider the case of the applicants for regularising them as per rules and instructions on the subject.

8. The O.A. is disposed of with the above directions. No costs.

Kulay
(KULDIP SINGH)
MEMBER(JUDL)

/dinesh/