

Central Administrative Tribunal
Principal Bench

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O.A.No.539/98

with

O.A.No.460/98

O.A.No.461/98

Hon'ble Mr. Justice K.M.Agarwal, Chairman
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 15th day of October, 1998

O.A.No.539/98:

Sangeeta Grover
w/o Sh. Rakesh Grover
r/o 793, Mohalla Hebat Pura
Najafgarh
New Delhi.

...Applicant

O.A.No.460/98:

1. Vinay Kumar
s/o Shri Dharmvir Singh
r/o 63/6 Sector I
Pushap Vihar
New Delhi.
2. Mam Chand
s/o Shri Banarsi Lal
r/o V.P.O.: Fatehpur Kalan
Distt: Binour (UP).
3. Ram Singh
r/o Vill: Nand Garhi
P.O.: Sekandrabad
Distt: Bulandshahar (UP).
4. Prem Singh
s/o Shri Man Singh
r/o 57, Lodhi Estate
New Delhi.

... Applicants

O.A.No.461/98:

1. Sanjay Kanojia
s/o Sh. Ram Prasad
r/o 46-A Old Market
Timar Pour
Delhi.
2. Virendar Kumar
s/o Sh. Faquir Chand
r/o C-236, Kidwai Nagar
New Delhi.
3. Chander Prakash Mehta
s/o Sh. S.B.Mehta
r/o 192/3, Govindpuri
New Delhi.

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4. Sanjay Kumar
s/o Sh. Nand Lal
r/o 192/3, Govindpur
New Delhi.
 5. Mukesh Kumar Tomar
s/o Sh. Mahak Singh Tomar
c/o Sh. C.P.Singh
RZF 769/8, Raj Nagar-II
Palam Colony
New Delhi.
 6. Devendara Kumar Singh
s/o Sh. Raj Narayan Singh
r/o 8/123, Khichripur
New Delhi.
 7. K.A.Gopi
s/o Sh. K. Appunny
c/o Sekharan, Block B-8
H.No.14-g, Mayur Vihar Ph.III
New Delhi.
 8. Sanjay Singh
s/o Sh. Uma Shankar Singh
r/o Kapasuan Colony (Aggarwala colony)
P.O.: Mugma, Distt: Dhanbad (Bihar).
 9. Din Dayal Pujari
r/o H.No.V.II.Rana Vibhndeshwar
(Dwarajit) Tehsil - Rani,
Distt. Almora (UP).
- ... Applicants

(By Dr. S.P.Sharma, Advocate in all the 3 OAs)

Vs.

1. Union of India
(through Secretary, Ministry of Home Affairs)
North Block, New Delhi.
 2. Jain Commission of Inquiry
(Through Sh. M.M.Sharma, US (Admn.)
Vidyan Bhavan Annexe
New Delhi.
- ... Respondents in
all the 3 OAs
- (By Shri S.Mohd. Arif, Advocate)

O R D E R

Hon'ble Shri R.K.Ahooja, Member(A)

These three OAs are being heard together as the applicants in all the three OAs are ad hoc employees of the Jain Commission of Inquiry whose services stand terminated with the term of the Commission coming to an end.

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2. The relief sought for, namely, that they be absorbed in any of offices under the Ministry of Home Affairs is similar in all the OAs. A difference may however be noticed as regards the applicant in OA No.539/98, viz., Ms. Sangeeta Grover as she was working as LDC in the Jain Commission of Inquiry from 24.7.1996 till 28.2.1998. Though the applicant No.1 in OA No.460/98, was working as Driver he is stated to be drawing pay as Grade 'D' employee; the other three applicants were working as Group 'D' employees as Sweeper, Farash and Peon from 29.10.1991, 16.6.1992 and 1.1.1992 respectively. In OA No.461/98 all the 9 applicants were working as Peons on different dates from 6.11.1991. All the applicants in the three OAs were initially engaged on ad hoc basis for a period of six months and their services were extended from time to time in the Jain Commission of Inquiry.

3. The applicants' case is that they have been working with the said Commission for a period of two years and above. In the meanwhile, they have become over aged for employment in Government. Apprehending the termination of their services, they had requested the Secretary of the Commission to circulate their names to various offices under the Ministry of Home Affairs but despite reference made by the said Commission the Ministry did not accept their request.

4. The respondents in their reply state that the applicants were very well aware of the fact that the Commission had a short life and that they were not likely to be continued thereafter. Besides the applicants had already crossed the age of 25 at the time of their

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engagement and were thus already over-age for direct recruitment. The respondents also state that the applicants being ad hoc employees they were not in the nature of regular Government servants, therefore, their cases did not fall within the purview of the Government of India's orders in Ministry of Home Affairs OM No.3/27/65-CS.II dated 25.2.1966 as amended in CCS (Redeployment of Surplus Employees) Rules, 1990.

5. We have heard the counsel on both sides. The learned counsel for the applicant relied on the judgment of this Tribunal in OA No.1167/94, Annexure 'C' in which the applicants had also worked as Group 'D' employees in various Committees and Commissions set up under the Ministry of Home Affairs. Noting that no definite Scheme was shown by which such applicants were covered, the OA was disposed of with a direction that respondents would consider candidature of the applicants as Casual Labour against any available vacant Group 'D' post but not alongwith fresh entrants for absorption/regularisation in Group 'D' posts; instead they would be considered as a special class after relaxing the age requirement as well as the requirement of coming through employment exchange, giving them preference over outsiders and freshers.

6. On consideration, though we find that in so far as the applicants herein, except the applicant in O.A.No.539/98, have also worked as Group 'D' ad hoc employees in Jain Commission of Inquiry, their recruitments were not in accordance with any Recruitment Rules. They had already crossed the age of 25 years at the time of their employment and were of over-age for direct recruitment. They also knew that the Commission

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had a short life and their appointments were co-terminus with the life of the Commission. The applicant in O.A.No.539/98, Ms. Sangeeta Grover belonged to a different category of Group 'C' employees. In other respects, her case was also similar to other applicants in O.As.460/98 and 461/98. In Maheshwari Sr. Higher Secondary School Vs. Bhikha Ram Sharma, 1996 SCC (L&S) 815, the Supreme Court held that on abolition of posts, no enquiry before termination of the services of ad hoc employees was necessary. In Central Welfare Board Vs. Anjali Bepari, 1996 SCC (L&S) 1358, the Supreme Court noted certain facts and made certain directions as follows:

"..... It is not in dispute that the project is being wound up in a phased manner and the services of the employees are being dispensed accordingly. It is stated by the learned counsel for the petitioners that no one junior to the respondent was allowed to continue in the said project. It is stated that there are other projects being operated similarly, but the persons engaged therein also are continuing on temporary basis and are senior to the respondent. Therefore, she cannot be regularised in any other scheme. In view of the above stand, we direct the petitioners to continue the respondent in any other temporary scheme but keeping in mind the overall seniority of all the persons; the dispensing with the services should be on last-come-first-go basis, i.e., the juniormost incumbent has to go out first. As and when vacancies would arise, such persons whose services have been dispensed with will be taken back without following the practice of requisitioning the names of candidates from the employment exchange. They would be regularised only when regular posts are available and in accordance with the order of seniority."

The employees before the Supreme Court were not shown to be of over-age on the date of their initial appointment. In that case other projects were shown to be in operation. In the present O.As., it is not shown that any person junior to any of the applicants was retained in service. Under these circumstances, no such directions for future employment as were given by the Supreme Court are possible to be given in these cases.

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For these reasons, all these O.As deserve to be dismissed and are hereby dismissed, but without any order as to costs.

(K.M. Agarwal)

(R.K. Ahooja)
Member (A)

/rao/

*True copy
M. K. Singh*

PRITAM SINGH
Court Officer
Central Administrative Tribunal
Principal Bench
Fardkot House, New Delhi

M. K. Singh

15/10/18