

Central Administrative Tribunal:Principal Bench

OA No. 1672/95

New Delhi, this the 15th day of July, 1996

Hon'ble Shri S.R.Adige, Member (A)
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. Sh.Rajesh Kumar Mehto,
s/o Sh. R.L.Mehto,
r/o 12/3A, Kali Bari Marg,
PNT Qtrs.,
New Delhi.
2. Shri Virender Singh
s/o Late Jeet Singh Negi,
r/o 63/752, Punchkuian Road,
New Delhi.
3. Shri Tikori Prasad,
s/o Sh. Jay Shree Prasad,
r/o G-379, Shriniwas Puri,
New Delhi.
4. Sh. Narain Singh Rawat,
s/o Shri Pratap Singh Rawat,
r/o RZ 239A Pkt-4, Pratap Vihar,
Phase-I, Near Mithari Village,
New Delhi.

...Applicants.

By Shri D.R.Gupta, Advocate

Versus

The Chief Controller of Accounts,
Ministry of Finance,
Room No. 240B, North Block,
New Delhi. ...Respondent.
By Shri V.S.R.Krishna, Advocate.

O R D E R

By Hon'ble Shri S.R.Adige, Member (A):

application
In this/Shri R.K.Mehto and three others have sought a direction to the respondents to re-engage them as Casual labourers and to consider them for regularisation in group 'D' post or for grant of temporary status in accordance with Government Policy after declaring the action of the respondents to replace the services of the applicants as illegal, being violative of Articles

14 & 16 of the Constitution.

2. Heard.

3. Admittedly all four applicants before us were sponsored through Employment Exchange and while three of them were engaged as Casual labourers on 16.9.93 and the 4th one was engaged on 10.11.1993, all of them were disengaged w.e.f.

9.4.1994 (Annexure R-3) and were re-engaged w.e.f. 3.5.94. According to the respondents, every order extending their engagement from time to time clearly indicated that on the expiry of the period of such engagement, their services would stand terminated. Their services were last extended by order dated 8.3.1995 (Annexure R-5) from 3.3.95 to 31.3.1995 and all four applicants were disengaged w.e.f. 1.4.1995 by the said order. Thus, according to the respondents own admission in paragraph 4.4. of their reply, the period of deployment of the applicants was as under:-

Name	Initially engaged on	No. of days worked in	
		1st year of service w.e.f.	2nd year of service w.e.f.
		16.9.93 to 15.9.94	16.9.94 to 31.3.95
Virender Singh	16.9.93	245	149
Tikori Prasad	16.9.93	255	163
Narain Singh Rawat	16.9.93	257	160
R.K. Mehto	10.11.1993	261	113
		(10.11.93 to 9.11.94)	(10.11.94 to 31.3.95)

4. Meanwhile, according to the respondents, the services of eight water boys were needed from May, 1995, for filling water in the desert coolers during the summer season, 1995. For this purpose,

names were called from the Employment Exchange, who sponsored 86 candidates including the applicants. The respondents state that the candidates sponsored by the Employment Exchange were interviewed and eight persons were deployed w.e.f. 3.5.95 as selected by the Selection Committee, but the applicants were not selected.

5. The applicants, however, alleged that their services were illegally dispensed with and they were re-placed by others, merely to deprive them of their rights to grant of temporary status in pursuance of DPA&R's OM dated 10.9.1993.

6. No materials are available on record as to why the applicants were not selected by the Selection Committee for the un-skilled and simple task of pouring water in the desert cooler, during the summer season, 1995 despite having been sponsored by the Employment Exchange and having been interviewed alongwith others. In the background of the number of days of service already put in by them, as admitted by the respondents themselves and extracted in paragraph 3 above, the non-engagement of the applicants as water boys for the summer season, 1995 leads to credence to the applicants' allegations that they were replaced by others, to deprive them of their rights to grant of temporary status in pursuance of the DPA&R's OM dated 10.9.1993.

7. In Piare Singh vs. State of Haryana (AIR 1992 SC 2130), the Hon'ble Supreme Court have categorically stated that adhoc employees should not be replaced by ad hoc employees, and in the present case the materials before us ^{compel us} to conclude that this is exactly what the respondents have done, which cannot be justified.

8. During hearing Shri D.R.Gupta, counsel for the applicants has relied upon a CAT, PB decision in OA No. 2173/95 Veer Pal Singh & Ors. Vs. UOI decided on 21.3.1996; Ghaziabad Development Authority & Ors. vs. Shri Vikram Chaudhary & Ors. JT 1995(5) SC 636 and CAT decision in OA No. 1696/95 in Kiran Kishore & Ors. vs. UOI & Ors. decided on 13.11.1995. In the background of those rulings, and in the light of what has been stated above, this OA is allowed to the extent as detailed in the following directions to the respondents:

- a) The order dated 8.3.1995 terminating the applicants services w.e.f. 1.4.95 is quashed and set aside and the respondents are directed to take the applicants back in service within a period of one month from the date of receipt of a copy of this order. We, however, make it clear that the applicants will not be entitled to any wages for the period they have not actually worked;
- b) Respondents shall pass an order in regard to the grant of temporary status to the applicants w.e.f. the date on which they

completed 206 days of continuous service in a year, in terms of paragraph 4 of the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993 circulated vide DPAR'S OM dated 10.9.1993. This order will be passed within a period of one month of taking the applicants back in service, and the applicants will be entitled to the benefit flowing therefrom.

c) There shall be no order as to costs.

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

Adige
(S.R. Adige)
Member (A)

:Naresh: