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Central Administrative Tribunal
Principal Bench: New Delhi

New Delhi this the 8th day of May 1996.

Hon'ble Mr. A.V. Haridasan, Vice Chairman (J)
Hon'ble Mr R.K. Ahooja, Member (A)

OA No. 425/95

1. Suresh
S/o Sh. Ramesh Chander
R/o 2, PWD Sewa Kendra
Police Colony
Ashok Vihar
Delhi-110 052.
2. Kartar Singh
S/o Hari Chand
R/o 24 Gaon Jagat Pura
Post Buradhia, Delhi-9.
3. Sarat Singh
S/o Yogeshwar Singh
R/o 36/426 Panchukian Road
New Delhi.
4. Rajender Singh
R/o House No. 605, Sector -4
Pushp Vihar, New Delhi.
5. Ishwar Singh
S/o Khyala Ram
R/o H.No. 111, Village Bijawasan
New Delhi-81.

...Applicants.

(By Advocate: Shri Surinder Singh)

Versus

1. Union of India through
The Secretary
Ministry of Home Affairs
North Block
New Delhi.
2. The Chief Secretary
Govt. of NCT, Delhi.
Sham Nath Marg
Delhi - 54.
3. The Deputy Director
Dir. of Census Operations Delhi
Old Secretariat
Delhi-54.

...Respondents

(By Advocate: Shri M.K. Gupta)

O R D E R (Oral)

Shri A.V. Haridasan, Vice Chairman (J)

This is the second round of litigation between the applicants and the respondents. The applicants are thrown-out casual labourers under the Directorate of Census for want of work. Aggrieved by the termination of their services and

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non-consideration by the respondents of their case for regularisation, they filed OA No.615/92 & 1588/92. These applications were disposed of by a common order with a direction that the Chief Secretary, NCT, Delhi should decide the question of regularisation of the services of the applicants in the above said two applications and the Chief Secretary should give reasons for the conclusion that he would be arriving at. Alleging that the directions contained in the judgement were not complied with, some of the applicants in the above said two cases moved this Tribunal in Contempt Petition No. 136/94. That CP was dismissed but it was observed that if the petitioners felt aggrieved by the conclusion arrived at by the Chief Secretary, it would be open for them to challenge the said conclusion by resorting to appropriate remedy. It is in this context that the applicants have filed this application. It is alleged that while several casual labourers who were working under the Directorate of Census like the applicants, many of them with lesser length of service than the applicants, were absorbed on regular posts under the second respondent, the respondents have adopted a hostile attitude towards the applicants for the reason that they filed the original applications and also moved the Tribunal in contempt petitions against the respondents. The applicants have given a list of persons similarly situated like them who have been absorbed on Group-D posts under the second respondent, indicating that many of them had lesser length of casual service than the applicants. This detail was furnished by the applicants in an affidavit at the directions of the Division Bench earlier. Notices having been issued to the respondents, Shri M.K.Gupta, Additional Central Government Standing Counsel, appeared for respondents 1-3 and the respondents^{1&3} have filed a reply statement opposing the application. Respondent no.2, despite several notices, did not enter appearance to contest the case.

2. The case of the casual labourers who were retrenched from the service of the Directorate of Census was considered by the Chief Secretary and ~~it was~~ as directed by the Tribunal. A distinction was drawn between the petitioners and 13 others who were absorbed on regular basis under the NCT, in that, those 13 persons came within the definition of Retrenched Census Workers in accordance with the letter dated 19.5.92 as they were appointed on contractual basis on monthly consolidated rates while the applicants were engaged only as casual basis on daily wages.

3. We have gone through the letter dated 19.5.92 which has been produced by the respondents 1 & 3. Scanning through the entire text of the letter, we could not find that casual labourers who have been rendering service on daily rate basis would not come within the purview of retrenchment census employee. In other words, no difference between those engaged on consolidated rate basis and daily rate basis is seen mentioned in the letter, particularly if they ^{can} have acquired temporary status having rendered services for the requisite number of days i.e. 206 days in a year. Respondents 1 & 3 in their reply contended that names of those who were entitled to the benefit of the circular dated 19.5.92 alone were sponsored for employment and the applicants being not entitled to the benefit of the letter have no right to claim regularisation.

4. On a careful consideration of the materials available, we are left with no doubt that there is absolutely no distinction between a casual labourer who has rendered service on daily rate basis and another one who has rendered on monthly (consolidated) basis. In fact if a daily rated employee has rendered 206 days of service, he has a better status than a monthly (consolidated) rated employee who has not completed the said length of service.


19.5.92 - Corrected vide order
on MP 130196 dtd
2-7-96
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We are, therefore, convinced that the distinction made by the second respondent in ~~the letter~~ between these two classes of casual labourers is unjustified and that on the basis of the above distinction, the benefit, otherwise available to the applicants, should not have been denied to them.

5. In the conspectus of the facts and circumstances, we dispose of this application with a direction to the third respondent to sponsor the names of the applicants to the second respondent or to any other authority where there is vacancy for consideration of the cases of the applicants for re-engagement and regularisation, if they are not otherwise ineligible, in accordance with the terms of the letter dated ~~19.2.92~~ 19.5.92 ^{Corrected} vide ^{order} MYP 1303/96 dtg 2.7.96.

6. The third respondent shall consider and sponsor the names of the applicants if they are found eligible within a period of one month and the second respondent shall consider re-engagement and regularisation of those applicants who ^{names are} ~~have~~ been sponsored, within a period of two months from the date of receipt of this order.


(R.K. Ahooja)
Member (A)

Ashraf


(A.V. Haridasan)
Vice Chairman (J)