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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 100/1995
M.A. NO. 702/2000
M.A. NO. 1453/2001
M.A. NO. 252/2002

This the 7th day of March, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

1. Jagdish Prasad S/O Ram Dulari,
R/O T.C.Camp, Qr. No.C-17,
Khichdipur, New Delhi.
2. Parmeshwari S/O Sakal,
R/O Railway Nursery,
Janta Camp, Bhairon Mandir,
Gate No.1, Pragati Maidan,
New Delhi.
3. Ram Kumar Yadav S/O Pyare Lal,
R/O T.C.Camp, Qr.No.E/10,
Khichdipur, New Delhi.
4. Changu Ram S/O Ram Dhin,
R/O Railway Nursery,
Janta Camp, Bhairon Mandir,
Pragati Maidan, New Delhi.

(All are employed as Casual Labour
(Daily rated) in the Archaeological
Survey of India, New Delhi).

Applicants

(By Shri B.B.Raval, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of
Human Resources Development,
Government of India,
Shastri Bhawan, New Delhi.
2. Director General,
Archaeological Survey of India,
Janpath, New Delhi.

Respondents

(By Shri M.K.Gaur for Shri R.P.Agarwal, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Whereas applicants 1 and 2, Jagdish Prasad and
Parmeshwari, claim to have been engaged by respondent

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No.2 as daily-rated casual labour since 1991, applicants 3 and 4, Ram Kumar Yadav and Changu Ram are stated to have been working as such under respondent No.2 since 1993 and 1994 respectively. They further claim that they have worked with respondents continuously for more than 240 days in a year, yet they have not been granted temporary status and further consideration for regularisation of their services.

2. On 30.11.2000, this Tribunal had ordered in this case, "In so far as applicants' prayer for grant of temporary status is concerned, respondents should check up the factual position from their own records as well as such materials as applicants are in a position to furnish to them and file an additional affidavit in this regard before this Bench within two months." Respondents have accordingly filed additional affidavit of Shri A.K.Sinha, Superintending Archaeologist on 16.10.2001 and six more affidavits of junior officials in support thereof. On behalf of applicants rejoinder affidavit has been filed in response to the aforesaid additional affidavit along with copies of seniority rolls of daily-rated casual labourer as on 1.1.1994 and 1.1.1995.

3. We have heard the learned counsel of both sides and also perused the material on record.

4. Learned counsel of applicants stated that Superintending Archaeologist Shri A.K.Sinha has filed additional affidavit dated 16.10.2001 on the basis of six more affidavits (Annexures R-1 to R-6) of the subordinate

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officials. In this additional affidavit it has been stated that applicants have not completed 240 days in any one year from 1991 to 2001. However, it is also stated therein that "the records pertaining to Lal Kot for the year 1993 are not available hence the working days of the applicants cannot be verified." Learned counsel of applicants drew attention to Annexure A-1 colly. regarding number of days put in by applicants in 1993 and/or 1994. As per these documents, applicant No.3, Ram Kumar Yadav, worked for 249 days in 1993 and 235 days in 1994. Similarly, applicant No.2, Parmeshwari, worked for 245 days during 1993. Learned counsel contended that applicant No.1, Jagdish Prasad, was engaged for 245 days in 1993. Applicant No.4, Changu Ram, is stated to have been engaged as daily-rated casual labour in 1994 for 124 days. Learned counsel stated that these applicants were also similarly engaged as applicants. Learned counsel stated that if the number of days put in by all these applicants at Lalkot were added for the year 1993, all of them would have completed 240 days in 1993 on verification. Learned counsel also referred to Annexure-A colly. to applicants' rejoinder to the additional affidavit, to state that persons who had worked only for one year, have been granted temporary status as on 1.1.1995, while applicants who have been working with respondents since 1993/1994 have not been given temporary status. In the cases of sl. no.426, 427 and 428, namely, Rajkumar, Kamlesh and Pitamber, even though details of their working in Lalkot were not available and number of days for which they worked have not been indicated in the combined seniority roll of

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daily waged casual workers (temporary status); they have been included among temporary status casual workers. Similarly, in the list as on 1.1.1995 the name of Kanhiya Lal has been included although the number of days put in by him in one year have not been indicated. Learned counsel of respondents stated that record relating to Lalkot is not available. But information on the basis of records available regarding other places has been compiled and put in the additional affidavit. In the absence of record relating to Lalkot, we have to rely on the information contained in Annexure A-1 regarding applicants Ram Kumar and Parmeshwari who have put in more than 240 days during 1993. Such information has not been furnished by applicants in respect of the other two candidates. Whereas record pertaining to Lalkot for the year 1993 is not available, applicant No.4, Changu Ram, started working with respondents w.e.f. 1994 only, and non-availability of Lalkot record in respect of this applicant is not relevant. In the absence of any document furnished by this applicant in this regard and keeping in view the information regarding him in the additional affidavit, it is clear that this applicant has not put in 240 days in a year since 1991. Applicant Jagdish Prasad has not filed any document relating to the number of days put in by him. In his case too, we have to rely on the information contained in the additional affidavit filed by respondents. He has also not worked for 240 days in any year since 1991.

5. The combined seniority rolls of daily waged casual workers (temporary status) as on 1.1.1994 and

1.1.1995 have been carefully studied by us. Column No.6 of these statements indicates total number of years when these workers have worked for 240 days and more. Column No.7 contains information about total number of days worked by these persons eversince they were engaged. So, it is not that Rajkumar, Kamlesh and Pitamber worked only for one year. They worked for 240 days in one year although they had been working for longer period than one year. However, details about their work at Lalkot were awaited and total number of days worked since beginning have not been indicated. Similarly, in the combined seniority roll as on 1.1.1995, certain casual workers completed 240 days for one year, two years or three years, although they had put in longer number of years' work. It cannot be established from these statements that there were casual workers who had worked for fewer number of years than applicants, and had been accorded temporary status.

6. From the above facts, there is a justification for according temporary status and further consideration for regularisation in the case of applicants Ram Kumar Yadav and Parmeshwari only.

7. Learned counsel of applicants stated that Shri A.K.Sinha had furnished a false affidavit as established by Annexure A-1 which is a certificate in favour of applicant Ram Kumar. Learned counsel stated that similarly, respondents have filed false affidavit in the case of applicants Jagdish Prasad and Parmeshwari. He

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has further sought that the Tribunal should initiate suo motu criminal contempt proceedings against Shri A.K.Sinha.

8. Respondents have been called upon vide order dated 30.11.2000 to check up the factual position from their records as well as such materials as applicants are in a position to furnish to them, and file an additional affidavit. Shri Sinha has filed additional affidavit in pursuance of the above orders, and also indicated as to which record is not available. The information related in the additional affidavit does not amount to submitting a false affidavit contrary to any available documents. The plea of learned counsel of applicants to initiate contempt proceedings against Shri Sinha is, therefore, rejected.

9. On behalf of respondents, despite additional affidavit of Shri A.K.Sinha, the claim of applicants, namely, Parmeshwari and Ram Kumar Yadav could not be contradicted and as discussed above, on the basis of documentary proof furnished by applicants, they are found to be eligible for consideration for conferring temporary status on them.

10. Having regard to the above discussion, respondents are directed to consider the cases of applicants Ram Kumar Yadav and Parmeshwari for conferring temporary status on them and further considering them for regularisation of their services in terms of their seniority and provisions of relevant scheme and

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instructions. So far as other applicants are concerned, although they have not been found to have put in 240 days in a year, as they have been working with respondents for a long time, they would continue to engage them whenever work is available, in preference to juniors and freshers.

11. The OA is disposed of in the above terms. No costs.

12. MA Nos. 702/2000, 1453/2001 and 252/2002 also stand disposed of.

Kuldeep Singh
(Kuldeep Singh)
Member (J)

V. K. Majotra
(V. K. Majotra)
Member (A)

/as/