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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-1458/96.  
MA-1487/96

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New Delhi this the 26th day of September, 1997.

Hon'ble Sh. S.P. Biswas, Member(A)

1. Sh. Wilson Massy,  
S/o Sh. B.L. Massey,  
R/o 1093, Old Vijay Ngr.,  
Ghaziabad(UP).
  2. Sh. Raj Kumar,  
S/o Sh. Ganeshi Lal,  
Ghaziabad Central Division,  
CPWD Hindon Air Field,  
Ghaziabad(UP).
- ..... Applicants

(through Sh. U. Srivastava, advocate)

versus

1. Union of India through  
the Director General of Works,  
CPWD, Nirman Bhawan,  
New Delhi.
  2. The Supdt. Engg.,  
Delhi Central Circle No.5,  
CPWD, New Delhi.
  3. The Executive Engg.,  
CPWD Hindon (A.F.)  
Ghaziabad Central Circle,  
Ghaziabad(UP).
- ..... Respondents

(through Sh. K.C.D. Gangwani, advocate)

ORDER(ORAL)

Both the applicants, serving with the respondents as Motor Lorry Drivers on daily wage/hand receipt basis are aggrieved by communication dated 22.8.94 by which the temporary status given to them earlier by A-1 order dated 10.6.94 has been cancelled. They are, therefore, seeking relief in terms of (i) regaining the temporary status w.e.f. 10.09.93 as was conferred by the respondents by A-1 order; (ii) cancel the A-2 order and (iii) issuance of directions to

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respondents to regularise them in the same capacity. The learned counsel for the applicants would argue that the claim for regularisation is based on Annexure A-8<sup>o</sup> office memorandum of the respondents dated 28.03.94. The said memorandum formulates a Scheme for grant of temporary status/regularisation of casual labourers. To buttress his arguments further, the learned counsel for the applicant argued that a similarly placed employee (Sh. Raghubir Singh) working as Motor Lorry Driver has been granted temporary status vide order dated 14.03.94 pursuant to the Scheme "Casual Labourer Grant of Temporary Status & Regularisation" Govt. of India effective from 1.9.93. The ld. counsel would argue that having given this benefit to one of the similarly placed employees, the applicants could not be denied the same.

The ld. counsel for the applicants further submitted that his claim is covered under the decision of this Tribunal in OA-797 & 799/92 (Madras Bench) decided on 23.6.93. In that case the applicants were employed through Employment Exchange as Group-C Drivers on daily wage basis for more than 8 years and the O.A. was disposed of with a direction to respondents to consider the applicants therein for regularisation in accordance with the guidelines given by the Tribunal on the subject. The applicants are working since 1988 and 1989 respectively with satisfaction to superiors and without any break in service and, therefore, their cases, being identical to the facts and circumstances of the aforesaid O.A., deserves consideration.

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In the counter, the learned counsel for the respondents argued that the Scheme for providing temporary status/regularisation is only applicable to Group-D daily rated category of workers and since the applicants are working as drivers which is group 'C', they are not eligible for similar benefits. There is no legally enforceable rights for the applicants to get regularised directly in Group-C category. The learned counsel, however, could not throw any light as to how similar placed employee, namely, Sh. Raghubir Singh, could be given temporary status by the Executive Engineer(E), CPWD, New Delhi. However, there has been no such violation of the rules in the Ghaziabad Central Circle.

After having gone through the records and also the pleadings, I am of the view that the applicants' cases needs to be considered as per the guidelines available on record. The respondents have not come out with appropriate reasons as to how temporary status given in April, 1994 could be withdrawn in August, 1994. An administrative order, having civil consequences, can only be issued after recording the reasons. The Annexure A-2 order dated 22.8.94 is without any reason for the conclusion drawn therein. Such orders cannot be sustained in the eyes of law. Referring to such orders, respondents shall do well to remember the law laid down by the Hon'ble Supreme Court by a Constitution Bench of Five Judges in the case of S.N. Mukerjee Vs. U.O.I.

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✓ (1990(5) SLR 8) in which it has been held that:

"For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision."

I am also not in a position to accept the contention of the ld. counsel for the respondents that they can offer the benefit of the Scheme of seniority for the purpose of regularisation in one circle and resort to a different practice in another circle and that too without any recorded reasons.

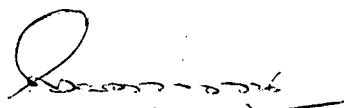
I also find that the facts and circumstances of the case are similar to those mentioned in the O.A. Nos. 797 & 799 of 1992 decided by the Madras Bench. Accordingly, I allow the application with the following directions:-

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- (i) The impugned order dated 22.8.94 is set aside.
  - (ii) The respondents shall consider regularisation of the applicants in Group-C post of drivers in the light of the discussions made above and particularly in the light of the Madras Bench decision of this Tribunal.

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(iii) The orders regarding item (ii) aforesaid shall be passed within a period of 4 months from the date of receipt of a copy of this order and the applicants be informed accordingly.

There shall be no order as to costs.

  
(S.P. Biswas)  
Member(A)

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