

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

HON. SHRI R.K. AHOOJA, MEMBER (A)

OA No.2556/1996

NEW DELHI, THIS 31 DAY OF OCTOBER 1997.

1. Sh. Raimeshwar
S/O Sh. Dharam Singh
H.No. 2-2/90 B
Mohan Garden, N. Delhi-59.
2. Ram Khilari
S/O Sh. Ram Swroop
15/195, Dakshin Puri,
New Delhi-62.
3. Ramjit Pal
S/O Sh. Devi Prasad Pal
C-77/489, Taitar Squir,
Gole Market, N. Delhi-1.
4. Anand Swroop
S/O Sh. Mannoo Singh
S/189, School Block,
Shaker pur, Delhi-92.
5. Sharvan Kumar
S/O Sh. Laxmi Chand Sharma
H.No. 5 Teen Murti Marg,
N. Delhi-1.
6. Mahesh Chand
S/O Sh. Sri Ram
11/153, Bapu Dham,
New Delhi-21.
7. Amerash Kumar
S/O Sh. Gurucharan,
13/491-92, Kalyan Puri,
Delhi-91.
8. Sant Lal
S/O Sh. Ram Ganesh
F/47, Rana Park,
Sireshpur, Delhi-42.
9. Fali Ram
S/O Sh. Sampat Ram
C-2/Plot No. 140
Mohan Garden, N. Delhi. 59.
10. Lal Chand
S/O Sh. Sadhan 1 1
D-36, Than Sen Road, Near Kamla Market
Police Station, N. Delhi-2.
11. Khema Nand Khulbe
S/O ~~Sh. Khulbe~~ Late Sh. Bachi Ram
G/O I-98, N. D. M. C. Plot,
Sarojni Nagar, N. Delhi. 23.

12. Shiv Ganesh
S/O Sh. Harsharan
H.No.A/28 Rati Ram Colony
Behata, Hazipur, Post-Loni
Distt. Gaziabad (U. P)
13. HuKam Singh
S/O Sh. Sukhi Ram
18 Ali Ganj, Kotla Mubarakpur
New Delhi-3.
14. Devi Das
S/O Sh. Mohan Das
Address- -do-
15. Ramesh Kumar Madhukar
S/O Sh. Anutha Sha
18/334, Tirlok Puri
Delhi-91.
16. Anwar Hussain S/O Akhtar Hussain
17. Ashok Kumar S/O Bramanand
18. Ramwati S/O Prem Pal
19. Raj Kumar S/O Kamal Singh
20. Satinder Kumar S/O Sh. Ram Swaroop
21. Sunil Kumar S/O Mahabir Singh
22. Kishan Singh S/O Shankar Singh
23. Balbir Singh S/O Ram Swaroop
24. Kamal S/O Prakash Chand
25. Sunil Kumar S/O Lal Chand
26. Mahipal Singh S/O Ramesh Chand
27. Rakesh Kumar S/O Kailash Narain
28. Anika Prasad S/O Birju Ram
29. Narayan Das S/O Bhima Ram
30. Ranjit Singh S/O Rai Singh
31. Chet Singh S/O Ranjit Singh
32. Anand Singh S/O Kalyan Singh
33. Manoj Kumar S/O Durga Prasad
34. Laxman Singh S/O Raghubir Singh
35. Mohan S/O Bal Kishan
36. Rakesh Kumar S/O Ramanand
37. Lal Singh S/O Ram Roon Singh
38. Harbir Singh S/O Mohanti

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39. Makhan Lal S/o Samai Singh
40. Jagdish Kumar S/o Maam Chand
41. Harish Chand Tiwari S/o Trilochan Tiwari
42. D.S. Rawat s/o B.S. Rawat
43. Rajpal Singh S/o Ram Kishan
44. Shyam Lal S/o Parmanand
45. Satbir Singh S/o Ram Diya
46. Ashok Kumar S/o Ram Kumar
47. Ombir Singh S/o Babu Ram
48. Bharat Kumar S/o Chhottee
49. Narpal Singh S/o Ludhar Singh
50. Surinder singh S/o Ishwar Singh
51. Ganesh Nath S/o Navdeep Nath
52. Satya Pal S/o Ram Diya
53. G. Jayakar Rao S/o G. Anandam
54. Ram Kumar S/o Sh. Jagdish Singh
55. Ram Kishan S/o Ram Raj
56. Perkash Chand S/o Sh. Ram Singh
57. Ajay Kumar S/o Sh. Yadram
58. Narinder Kumar S/o Sh. Gouri Dayal
59. Gopal Babu S/o Sh. Bisari Lal
60. G. Karmaker S/o A. R. Karmaker
61. Hari Kishan S/o Perlanad Singh
62. Satish Kumar S/o Sh. Swarup Singh
63. Ram Lal S/o Sh. Nathu Singh
64. Raj Kumar S/o Sh. Ramesh Kumar
65. Gagan Singh Rana S/o Sh. S.S. Rana APPLICANTS

All working as casual worker with
temporary status under repondent No.4
R/o C/o H.no.2-2/90 B
Mohan Garden
New Delhi-59.

(By Advocate - Shri T.C. Aggarwal)

VERSUS

UNION OF INDIA, through

1. The Secretary
D/o Personnel & Training
North Block
New Delhi.

contd..4/-

2. The Secretary
Ministry of I & B
Shastri Bhawan
New Delhi
3. The Director General
Doordarshan
Mandi House
New Delhi
4. The Director
Doordarshan Kendra.
Parliament Street
New Delhi

..RESPONDENTS

(By Advocate - Shri Haryvir Singh
proxy for Mrs. Pratima Gupta)

ORDER

The applicants are working as casual workers with temporary status under respondent No.4, Director, Doordarshan Kendra, Parliament Street. They were given temporary status on the basis of the scheme formulated by the respondents in 1993 on the basis of directions given by this Tribunal in Rameshwar & Ors. vs. UOI 1991 (17) ATC 760. The applicants say that the respondents were required to prepare the scheme within four months of the issue of the order in the aforementioned case but the scheme was formulated only in 1993 instead of 1991. Consequently, the applicants seek the conferment of temporary status from 1991 instead of 1993. They are also aggrieved that contrary to the directions of this Tribunal, the respondents have been making direct recruitment to group D posts, thus delaying their regularisation. The applicants further submit that even though 120 casual labours are continuing on more or less permanent basis signifying that the respondents have need for such workers on regular basis, the respondents, despite the instructions of the Tribunal, have not reviewed their requirements of staff and increased the regular posts of group D staff. This again has caused delay in the applicants' regularisation. Based on these

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assertions, the applicants seek a direction to the respondents that they be regularised forthwith, the benefits available to temporary government servants in the matter of leave, group insurance, holidays etc. should be extended to the casual temporary status employees, the requirement of group D posts be reviewed and the applicants be considered for regularisation in preference to outsiders.

2. The respondents in reply submit that the applicants are continuing to work with temporary status in the office. 11 persons amongst them have already been regularised on the availability of posts and the cases of five more are under process. More will be regularised as vacancies become available. The creation of additional posts in government offices is done as per SIU norms and the number of khalasis, peons, farashs and safaiwalas sanctioned so far is about 85. The direct recruitments referred to by the applicants have been made on the basis of reservation since no one from the reserved category was available from amongst the casual labourers. As regards raising the applicants at par with the regular group D employees, the respondents say that the scheme has been prepared on a uniform basis for all departments by the DOP&T. Certain facilities given to regular group D employees have also been afforded to casual labourers with temporary status. However, as the casual labourers are not working against regular posts, they cannot be brought at par in all respects with the regular staff.

3. ~~It~~ have heard the counsel. ^{Shri Agarwal} cited the case of STATE OF HARYANA VS. PYARA SINGH & ORS. JT 1992 (5) SC

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179 in which the Supreme Court observed that so far as the work charged employees and casual labours are concerned, efforts must be made to regularise them as far as possible and as early as possible subject to their fulfilling the qualifications prescribed for that post and subject also to availability of work; if a casual labour is continued for a fairly long spell, say two or three years, a presumption may arise that there is regular need for his services. In such a situation, therefore, it becomes obligatory for the concerned authority to examine the feasibility of his regularisation. The ld. counsel pointed out that the applicants have been working for very many years, in excess of six to seven years and therefore the presumption must be that the respondents require them on a regular basis. Similarly, the Supreme Court in the case of RAJESH KUMAR SONI & ORS. VS. M/O ENVIRONMENT AND FORESTS 1992 (21) ATC 401 observed that where petitioners had been employed as daily rated workers for more than four/five years, it gave an impression of the regular need of their employment. The respondents were therefore directed to absorb the petitioners as well as other similarly situated employees on a regular basis within three months. The ld. counsel also relied on RATTAN LAL & ORS. VS. UOI LT. GOVERNORS & ORS. 1992 (21) ATC 402 in which it was held that casual labours will be entitled to the salary and wages equivalent to the minimum salary plus allowances paid to regular employees in composite posts in the Department. The ld. counsel also cited the case of CHIEF CONSERVATOR OF FORESTS VS. JAGANNATH MARUTI KANDHARI 1996 (1) ATJ 113 in which it was held that workmen who had worked for more or less five years continuously were entitled to regularisation in view of the Piara Singh case.

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4. We have considered carefully the submissions of the ld. counsel for the applicants. The position as we see is that the respondents have formulated a scheme applicable to casual labour. As far as the first point regarding the grant of temporary status from 1991 is concerned, we find no merit in the claim. If the applicants have considered that the respondents have not complied with the directions of this Tribunal issued in 1991, then the proper course for them was to seek relief by way of contempt at the appropriate time. The applicants have already availed the benefits of the scheme formulated in 1993 and since the scheme is equally applicable to all the casual labour, we do not see that any discrimination or disadvantage is caused to the applicants. As regards the second claim that the scheme should provide for all the benefits of a regular employee, we again find no merit. If that were the case, then there would have been no need for formulating the scheme and it would have sufficed to say that all casual labour who complete the minimum required service will automatically attain the status of regular government employees. The state and the public exchequer cannot be burdened with staff who are appointed for a temporary requirement even after that requirement had been met and no longer existed. As for the assertion of the applicants that the mere fact of their continuation for such a long time indicates that the requirement for such workers is of a regular and permanent nature, we do find some merit. The respondents say that regular posts are being created on the basis of norms fixed by SIU. The respondents do not say that the need for the services of the applicants does not exist and they are being kept on the establishment merely for compassionate reasons. There is no explanation on the

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part of the respondents as to whether they have conducted a review of the requirements. The Supreme Court also in a catena of judgements, some of which have been relied upon by the applicants, had pointed out that where casual workers are continued for full five years, a presumption arises that there is need for their services on a regular basis. The applicants in the present case have been continuing for more than five years and hence this presumption would apply in their case also. If the respondents have not asked the SIU to examine the requirement of staff, they cannot take the plea that the posts could not be created because they do not meet the SIU norms. As regards the claim of the applicants that direct recruitment should not have been made, we find that this allegation cannot stand in view of the explanation of the respondents that such direct recruitment has only been made against reserved posts.

5. In the light of the above discussion, I partly allow this O.A. and dispose it of with a direction to respondents to undertake SUI study of the establishment and to complete the same within four months from the date of receipt of a copy of this order. The new posts may be created within a period of two months thereafter. If the respondents fail to complete this exercise within six months, they will regularise the services of the applicants by creating the necessary supernumerary posts.

The O.A. is disposed of accordingly. No costs.


(R.K. AHOOJA)
MEMBER (A)

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