

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.NO.630/96  
M.A.NO.635/96

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 11th day of April, 1997

1. Shri Umesh Singh  
s/o Shri Ram Singh  
r/o Vill. Naggla Rattoo  
Pragati Nagar  
H. No.168, 1C Meerut.
2. Shri Anil Kumar  
s/o Shri Maluk Chand  
r/o H. No.50/7, Jaigavi Nagar  
Garh Road, Gali No.7  
Meerut.
3. Shri Avdesh  
s/o Shri Juraban Rai  
r/o Kothi No.261  
Khanna Camp  
Meerut.
4. Shri Sant Ram  
s/o Shri Mahadev Prasad  
r/o Kothi No.261  
Khanna Camp  
Meerut.
5. Shri Jaswant Singh  
Shri Navkha Ram  
Kothi No.261.  
Khanna Camp  
Meerut.
6. Shri Jai Kishan  
s/o Shri Radhey Lal  
r/o Kaseru Khera  
Jhuggi  
Meerut.

... Applicants

(By Shri Surinder Singh, Advocate)

Vs.

1. Union of India through:  
The Defence Secretary  
Ministry of Defence  
South Block  
NEW DELHI.
2. The Director General  
Supplies and Transport  
Army Headquarters  
Sena Bhawan  
NEW DELHI.

Contd....2/-

3. The Commanding Officer  
No.40, ASC Supply Depot.  
Meerut Cantt.

4. CDA (M 4 Section)  
Meerut Cantt. ... Respondents  
(By Shri M.M.Sudan, Advocate)

ORDER (Oral)

The applicants are aggrieved that though they have been working for a number of years and have been granted temporary status and other reliefs after the order of this Tribunal in OA No.866/95 decided on 8.1.1995, the respondents have arbitrarily by the impugned order A-1 terminated their services. They allege that as per the aforesaid judgement of this Tribunal they were to be given seniority w.e.f. 1.9.1993 but they have not been paid pay and allowances for that period. They also allege that while dispensing with their services, the respondents have retained persons who are junior to them and have a lesser length of service. Therefore, the applicants have approached this Tribunal seeking a direction to quash the impugned order of termination and to allow them to continue to work uninterruptedly and also to pay them arrears from 1.9.93, give them due increments, leave, bonus etc.

2. The respondents in reply have stated that though the applicants were conferred temporary status, they do not acquire any right to continue in employment, and moreover no work is available. Since no work is available, the services of applicants were terminated vide order dated 5.1.96 (A-1). The respondents also state that the applicants have violated the discipline by sending a common application to higher authorities for regularisation of their services instead of making such representation to

the Commanding officer. They also state that no representation was received for grant of temporary status from 1.9.93, as directed by the Tribunal in its order in OA No.866/95. For this reason, there is no cause of action for the applicants.

3. I have heard the counsel on both sides. It is correct, as argued by the ld. counsel for respondents, that the grant of temporary status by itself does not entitle the applicants to continue in service even when no work is available. The applicants on the other hand have a right to such a plea in case their juniors were retained. It appears that certain juniors to applicants have been retained and the services of applicants dispensed with on the allegation that they had violated the discipline of the Unit. This is clear from the language of the impugned order in para 2 itself which states that a serious view was taken for writing certain letters wherein the administration has been wrongly and unjustifiably blamed for non-engagement of casual labourers. This is followed by a notice of termination of services. Obviously, in case the applicants were sought to be terminated on the ground of indiscipline, then proper inquiry should have been conducted and full opportunity for defence afforded to the applicants. Instead, the impugned order has been issued by way of punishment on alleged indiscipline. For this reason alone, the impugned order is liable to be set aside. The respondents have not denied that juniors have been retained while terminating the services of applicants. In case the respondents wish to terminate the services of applicants for non-availability of work, they will have to follow the principle of "first come last go".

4. As regards the claim of applicants that they have not been granted temporary status w.e.f. 1.9.93 despite the orders of this Tribunal in OA No.866/95, I find that the direction given in that order was that the applicants will file a representation and respondents were directed to take a decision thereon with a speaking order. A copy of the representation made by applicants is at Annexure No.24. However, no order on the same has been passed by the respondents. It also appears, after perusal of the representation, that no specific request was made for back wages and other benefits. In view of this, the applicants will have to make a fresh proper representation to the respondents putting their case for grant of temporary status as also for payment of pay and allowances and other consequential benefits.

5. In view of the above discussion and facts and circumstances of the case, the O.A. is disposed of with the following directions:-

- (i) The impugned order A-1 is quashed and set aside.
- (ii) The applicants will be deemed to be in service and they would be entitled to all consequential benefits.
- (iii) In case no work is available, the respondents should follow the principle of "last come first go".

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(iv) The applicants will file a proper representation regarding grant of temporary status from 1.9.93 with consequential benefits within a period of one month from the date of receipt of a copy of this order. The respondents will pass a speaking order on the same within one month from the receipt of such representation.

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

  
(R.K. AHOOJA)

MEMBER (A)

/rao/