

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

CA No. 683/96New Delhi: this the 10th day of August, 2000.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

HON'BLE MR. KULDIP SINGH, MEMBER (J)

1. Ajay Kumar,
 s/o Shri Jagdish Chander,
 R/o H.No.221,
 Vill. Shalimar,
 Delhi-52.

2. Rajneesh Kumar,
 s/o Shri Dwarka Nath,
 R/o H.No.3865,
 Charkhewala,
 Chawri Bazar,
 Delhi-6

3. Sajeev Saluja,
 s/o Shri K.C. Saluja,
 R/o A5-B/46-B,
 Janakpuri,
 New Delhi-58.

.....Applicants.

(By Advocate: Shri M.L. Chawla with
 Shri S.L. Lakhapaul)Versus

Union of India
 through
 the Foreign Secretary,
 Govt. of India,
 Ministry of External Affairs,
 South Block,
 New Delhi-11

.....Respondents

(By Advocate: Shri N.S. Mehta)

ORDERMr. S. R. Adige, VC (A)

Applicants who were appointed as adhoc clerks cum-typists through Employment Exchange, seek grant of temporary status in terms of DP & T's OMs dated 7.6.88 and 10.9.93.

2. The aforesaid OM's are in respect of grant of temporary status to casual workers/labourers in Group 'D' category. Posts of Clerks -cum-Typists are in Group 'C' category, and hence the aforesaid OM's are not applicable in the case of applicants.

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3. During hearing applicants' counsel contended that when there is provision to grant temporary status even to those working in Group 'D' category it is unjust, illegal and unfair to leave out those in Group 'C' category and the benefits contained in the aforesaid OM's should also be extended to persons such as applicants who were appointed to Group 'C' posts.

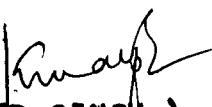
4. While it might well be open to respondents to examine such a prayer, for the present the aforesaid OM's are confined to casual workers/ labourers in Group 'D' category, and hence applicants cannot be extended the benefits contained in the aforesaid two OM's.

5. Although this is not the relief claimed in the OA, applicants' counsel also prayed that applicants be reinstated in service and regularised. Emphasis was laid on the fact that applicants were appointed through a test and interview. The commendation received by them when sent on election to J & K was also cited in their favour.

6. Although as stated above, this is not the relief asked by applicants in the OA, we have also considered this prayer. Admittedly applicants were appointed on adhoc basis for a period of 89 days in first instance, which was extended from time to time. These appointments were made as a purely stop arrangement in view of the delay in receipt of names of regular candidates through Staff Selection Commission. In State of Orissa & Ors. Vs. Deepki Mala Patra & Ors 1995 Supple 4 SCC 49 the Hon'ble Supreme Court after reiterating the ratio of their ruling in Piar Singh case has categorically held that regularly appointed

candidates have a right superior to those appointed on adhoc basis, and the latter have to make way for the former. During hearing respondents' counsel informed us that regular candidates had since been made available, and under the circumstance we hold that applicants' counsel cannot now legally claim reinstatement against those posts. Applicants' counsel relied upon various rulings including 1991 1983(1) SLJ 574; ATD/(10) Part I; AISLJ 1999(3) page 266 V.M. Chandra Vs. UOI; JT 1997(5) 712; AIR(1) 1988 page 557; and SC SLJ (2) 1950-88 page 203, but in the light of the Hon'ble Supreme Court's ruling in Deepa Mala Patra's case (supra) which in turn reiterates the ratio of their ruling in Piar Singh's case, and which is directly on the point in issue, the rulings relied upon by applicants' counsel do not advance applicants' case.

7. The OA is dismissed. No costs.


(KULDEEP SINGH)
MEMBER (J)


(S. RADIGE)
VICE CHAIRMAN (A)

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