

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A. No.115/1997

New Delhi, this 7th day of November, 1997

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

1. Shri Ved Prakash
Vashisth Dal Bhandar
Bata Chowk, Palam Village
New Delhi

2. Shri Jang Bahadur
247, Gali No.17, Ranjeet Nagar
New Delhi

.. Applicants

(By Advocate Shri A.K.Bhardwaj)

versus

Union of India, through

1. Secretary
Ministry of Defence, New Delhi

2. Director General of Sup. & Transport
Army Hqrs., New Delhi

3. Admn. Officer
390 Company, Army Service Core
c/o 56 APO, Hissar Cantt., Haryana .. Respondents

(By Shri K.C.D. Gangwani, Sr. Counsel)

ORDER(oral)

Both the applicants are aggrieved by the action taken by the respondents in not engaging their services as casual labourers after 30.10.96. They are also aggrieved because of some casual labourers, cited by them as examples, having been regularised though they are juniors to the applicants.

2. The counsel for the applicants would contend that applicant No.1 was appointed as casual labourer in the 390 Company to work as loader w.e.f. 15th October 1985 alongwith about 43 other persons, namely, Sh. Kishan Lal, Sh. Bhuley & Sh. Pal Singh etc.

Subsequent to the appointment of the applicant No.1 the respondents had appointed S/Sh. Badan Singh, Ram Prasad, Charti Ram, Ram Kumar & Suresh etc. as casual labourers (loaders) in the said company. It is respectfully submitted that from October 1985 till October 1990, the applicant worked under the respondent No.3 in 390 Company continuously without any break, when in October 1990, the respondents dispensed with the services of the applicant No.1 and continued engaging the services of the aforementioned junior casual labourers, namely, Badan Singh, Ram Prasad, Ramphal etc. 16

3. After disengagement of the services of applicants, the respondents in the year 1992 prepared a list of casual labourers in which they admitted several persons, namely, S/Sh. Badan Singh, Bhuley, Ram Prasad, Ram Phal, Charti & Satpal etc. for their regular absorption as group "D" employees and later on regularised them in the year 1992-93. When the respondents regularised the aforementioned junior persons as group "D" employees they did not even consider the applicants for their regular absorption in the same category.

4. That for the first time, the respondents engaged the applicant No.2 as casual labourer w.e.f. 1.2.1985 in the 390 Company, Army Service Core, Supply Depot and continued engaging him till June 1987, when they dispensed with his services. Thereafter when the respondents regularised the services of several of his juniors as casual labourers, they re-engaged him as

17

casual labourer in the year 1992 and continued engaging him till 26.12.1994 when they again dispensed with.

5. Since the applicants did not abandon the jobs on their own, they would support their claim on the basis of O.M. No. 49014/19/84-Estt. (C) dated 26.10.1984, issued from the Ministry of Home Affairs (DOPT) & letter No. 450040/ST (Civ.) dt. 18.11.1991.

6. Applicants approached this Tribunal earlier in OA 66/95 and as per the direction of the Tribunal, filed this present OA seeking re-engagement and regularisation. Learned counsel for the applicants, however, restricted his prayer to the extent of getting re-engagement in preference to juniors and outsiders.

7. In the counter, learned counsel for the respondents would argue that the cause of action in this case arose in October, 1990. After 1990, the applicants reported to them and worked only for four days in 1990 and did not turn up after that. The O.A. is, therefore, badly hit by limitation, the learned counsel for the respondents contended.

8. Casual labour Ved Prakash had left the service of his own desire w.e.f. 1.11.90. Hence, he did not complete the requisite conditions as required for regularisation. Therefore, his service could not be regularised. Applicant No.2 Shri Jang Bahadur was employed as casual labour in the month of November,

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1985 and not from February 1, 1995. In April, 1988, the applicant No.2 left service of his own accord and had worked for only 80 days during the year 1988. He did not complete 240 days in any of the years 1985, 1986, 1987 and 1988. As per Army Headquarters letter No. A/99862/Q/ST12 dated December 18, 1991, services of only those casual labourers were regularised who had completed the requisite condition i.e. 240 days in two years as well as present on 8.4.1991. Services of Shri Jang Bahadur could not be regularised due to non-compliance of eligibility conditions for regularisation.

10. The counsel for the applicants at this stage submitted that applicants would be contented if they could be re-engaged in suitable jobs now and would give up claims for regularisation. This appears to be a fair offer.

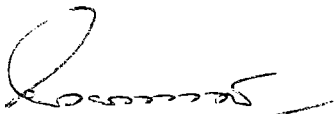
11. Having seen the records and heard the arguments during the course of pleadings, I have no doubt that the applicants had worked for more than 180 days in two years before 1990. Thereafter, they have worked for intervals. Applicants also claim that they have worked right from January 1995 and October 1995 respectively. Respondents had taken applicant No.1 on duty w.e.f. 3.6.95 on "daily call basis" and was shifted from Delhi to Hissar. Applicant No.2 was also engaged as casual labourer in ASC Department w.e.f. 3.6.95 on "daily call basis". This has not been effectively controverted by the respondents.

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19

12. Respondents have also submitted that in terms of Army Headquarters Instructions as in para-8, inter-se seniority among casual labourers and their regularisation etc. are governed by instructions therein. Having regard to the facts and relevant rules/instructions, the ends of justice could be met by disposing of the O.A. with the following directions:-

- (i) Respondents are directed to consider engaging the applicants as casual labourers in case vacancies exist in accordance with law, keeping in view that the applicants had worked earlier to 1990 over a long period of time and had also been engaged frequently thereafter.
- (ii) There shall be no order as to costs.


(S. P. Biswas)
Member (A)

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