

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

(14)

O.A. No.2958/97

New Delhi this the 11th Day of January 1999.

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

1. Mohd. Younus Khan,
S/o hri Amir Ahmed Khan,
D-160, Sanjay Park,
Baljeet Nagar,
New Delhi-110 008.
2. Shri Upendar Thakur,
S/o Shri Ram Chander Thakur,
1-2 Block,
Pusa Campus IARI,
New Delhi-110 012.
3. Shri Chandeshwar
S/o Shri Ram Suhag ,
10/145, DMS Colon,
Hari Nagar,
New Delhi.
4. Shri Ram Kumar,
S/o Shri Mangal Singh,
23-277, Pandav Nagar,
New Delhi.
5. Shri Krishan Dutt,
S/o Shri Badri Prasha,
R/o Delhi Milk Scheme,
West Patel Nagar,
New Delhi.
6. Shri Shiv Chander,
S/o Shri Makhen Mehto,
R/o G-213 Mangol Puri,
New Delhi.
7. Shri Raj Kumar,
S/o Shri Mohinder Paswan,
R/o I-93 Krishi Kunj,
Pusa, New Delhi.
8. Shri Nanak Singh,
S/o Shri Khamni Singh,
R/o D-820 Jhahagirpuri,
New Delhi-110 033.
9. Shri Rajinder Singh,
S/o Shri Chanderka,
R/o E-4/2, Sultan Puri,
New Delhi.
10. Shri Munshi Lal,
S/o Shri Anaut Ram,
R/o Jawaharlal T/672/2,
Gali No. 21, Baljeet Nagar,
New Delhi-110 008.

d.

UGP
2

15

11. Shri Shakal Dev,
s/o Shri Nathuni Paswan,
R/o B-24 IARI, Pusa,
New Delhi.
12. Shri Baij Nath,
S/o Shri Ramdev Paswan,
R/o 8/120 DMS Colony,
Hari Nagar,
New Delhi.
13. Shri Ram Niwash,
S/o Shri Man Singh,
R/o A-17, Vikash Vihar,
Kakrola More,
New Delhi.
14. Shri Ranvir Singh,
S/o Shri Vegh Ram Singh,
R/o A-460, Pandav Nagar,
Shadipur,
New Delhi.
15. Shri Anil Kumar,
s/o Shri Brahm Dutt,
R/o 19/245, Sarai Basti,
Delhi.
16. Shri Ram Shakal,
S/o Shri Ram Sagar Sahni,
Block No. 115, Room No. 1722,
Krishi Kunj, Pusa,
New Delhi.
17. Shri Narender Kumar,
S/o Shri Guru Charan,
R/o Block No. 468/69,
Jhahagirpuri,
New Delhi.
18. Shri Balbir Singh,
S/o Shri Mung Ram,
R/o T-8H Railway Quarters,
Sarai Rohila, New Delhi.
19. Shri Kamleshwar Rao,
S/o Shri Ram Briksh,
R/o A-19, Samtadham Jhuggi,
Hari Nagar,
New Delhi.
20. Shri Triloki Nath,
S/o Shri Tara Chand,
R/o 2104/5, Gali No. 10,
Prem Nagar,
New Delhi.
21. Shri Pravvesh,
S/o Shri Kukeshwar Ram,
R/o DMS, Patel Nagar,
New Delhi-110 008.

D.

16

22. Shri Kapildev,
S/o Shri Ramlakshan Mahto,
R/o WZ 121-C, Todapur,
New Delhi.

23. Shri Tuntun Thakur,
S/o Shri Ram Avtar Thakur,
I-2, Chirya Colony,
IRI, Pusa,
New Delhi-110 012.

Applicants

(All working as daily-rated mate in DMS,
Patel Nagar, New Delhi)

(By Adocate: Satya Mitra Garg)

-Versus-

1. Union of India through
the Secretary,
Ministry of Agriculture,
(Department of Agriculture &
Animal Husbandry and Dairy),
Krishi Bhawan, New Delhi.

2. The Chairman,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi.

Respondents

(By Advocate: Shri N.K. Aggarwal)

O R D E R

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

The applicants, 23 in number, have been working as daily rated mates from January 1995 in Delhi Milk Scheme. They had come before the Tribunal twice in O.A. No. 1996/97 which was dismissed as premature and then with O.A. No. 2514/97 which was disposed of with a direction to the Chairman, Delhi Milk Scheme to decide the representation of the applicants within a period of three months. It is now against the decision of the Chairman dated 26.11.1997, Annexure A, that the applicants have come before the Tribunal for the third time.

dr

17

2. The case of the applicants, in short, is that in terms of this Tribunal's orders in O.A.No. 37/88 and O.A.No. 948/88 confirmed by the Supreme Court in SLP No. 1085/90, they are entitled to transfer to regular establishment on completion of 240 days of regular engagement. On the other hand, the respondents contest the claim on the ground of limitation and also on merits since according to them there are no vacancies available in the regular establishment.

3. I have heard the counsel on both sides. In a similar case in O.A.No. 2415/97 with O.A.No. 2414/97, decided on 22.4.1998 where a similar relief on similar ground was sought, the following direction were given:

- i) Since the applicants have completed 240 days in a period of 12 months, the respondents will transfer them to the regular establishment w.e.f. 1st day of the month immediately following the 12 months of the said period.
- 2) The respondents will issue necessary orders and pay the difference of salary etc., to them from one year preceding to the date of filing their application in this Tribunal i.e. 22.12.1997. This shall be done within a period of 4 months from the date of communication of this order.

4. In that case also, the respondents had taken the plea that regular vacancies were not available and the cases of transfer of the applicants to regular establishment will be considered only on the availability of regular vacancies. The objection on the ground of limitation was also raised. The relief was granted on the following consideration:

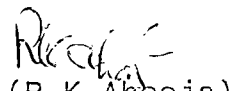
On



"I have considered the matter carefully. It is stated by the respondents themselves that the daily rated workers working in the DMS are governed by the Certified Standing Orders which provide for transfer of such of them who have rendered 240 days in service in a period of 12 months to the regular establishment. This being so, the case of the applicant is to be regulated in terms of directions given by this Tribunal in OA 1059/87. However, as regards the relief sought by the applicant in regard to payment of wages from March 1995, the same has to be decided in terms of the time frame in which they have approached this Tribunal. It is noted in that context that the present OA has been filed on 11.10.1997."

5.. Since the present case is on all fours with O.A. No. 2415/97 and O.A.No. 2414/97, the same relief is allowed in the present O.A. and the following directions are given to the respondents:

- i) Since the applicants have completed 240 days in a period of 12 months, the respondents will transfer them to the regular establishment w.e.f. 1st day of the month immediately following the 12 months of the said period.
- 2) The respondents will issue necessary orders and pay the difference of salary etc., to them from one year preceding to the date of filing their application in this Tribunal i.e. 22.12.1997. This shall be done within a period of 4 months from the date of communication of this order.


(R.K. Ahooja)
Member (A)

Mittal