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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 684/97

New Delhi this the 5th Day of June 1998

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

1. Shri Brij Nandan Sharma,
Son of Shri Goverdhan Sharma,
Village & P.O. Tilpat,
Faridabad.

2. Shri Nain Singh,
S/o Shri Ram Kishan,
Village & Po.O. Tilpat,
Faridabad.

Petitioners

(By Advocate: Shri R.C. Sethi)

-Versus-

Union of India, through

1. The Secretary,
Planning Commissioner,
Yojana Bhawan,
New Delhi-110 011.

2. The Director,
National Informatic Centre,
Planning Commission,
A Block, CGO Complex,
New Delhi-110 003.

Respondents

(By Advocate: Shri N.S. Mehta)

ORDER

The applicants, two in numbers, claim that they had worked at the National Information Centre as Casual Labour from April 1987 till 22nd December 1987 when their services were terminated by verbal orders along with similarly placed persons. They submit that some of their juniors S/Shri Lachoon Dass, Shyam Sunder and Gir Raj Singh had filed OA Nos. 2104/89, 2112/89 and 2089/89 which were disposed of by a common judgement on 31.1.1992, setting aside the impugned orders of termination and directing respondents to reinstate them as casual labour within a period of one

or

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months. The applicants say that since they were senior to the applicants in OA No. 2104/89, 2112/89, and 2089/89, they are entitled to the same relief.

2. The respondents in their reply have stated that the orders in those OAs by the applicant were modified in the review petitions filed by the respondents and directions were given to keep them as casual labourers only so long as there was work available, in preference to persons with lesser length of service. The applicants therein ~~are not~~ have been kept on a continuous basis but employed on seasonal or intermittent basis. They also raise an objection that the present application is barred by limitation.

3. I have heard the counsel and after considering the objection raised by the respondents. I agree with them that the present application is time barred.

4. The learned counsel for the applicant argued that as per the various judgements of the Hon'ble Supreme Court if the junior person gets a relief on the basis of a court order then the senior is entitled to the same relief. Two factors militate against the application of the general rules. Firstly the decisions in favour of Lachoo Dass and Ors are of 1992 and the present applicants slept over ~~this~~ claim for 5 years. Secondly there is no seniority list of casual workers since they are not part of a cadre and do not hold a civil post. Casual labourers are paid out of

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the contingencies and there is no gradation or inter se seniority in the sense that the term is applied to regular cadres. The casual workers have in any case no right to continue when there is no work, even though they may have preferential claim over outsiders or those with lesser period of engagement. This principle has evolved to safeguard against any act of arbitrariness or favouritism in employment of casual labourers. If the argument advanced by the learned counsel for the applicant were to be accepted it would mean that if a fresher is appointed all others who may have worked earlier even for a day would become entitled to engagement even if no work is available. This will go against the principle that the respondents cannot be compelled to provide employment when no work is available.

5. I therefore reject the plea of the applicants that they have a recurring cause of action and that the respondents are duty bound to give them employment. when a person with lesser length of service has been re-engaged by them under the orders of the Court. The applicants had a cause of action either in December 1987 when their services were dispensed with or at best in 1992 when their so called juniors were appointed. Their claim in 1997 therefore patently deserves no further consideration.

6. In the light of the above discussion, the OA is dismissed and there is no order as to costs.

R.K. Ahooja
(R.K. Ahooja)
Member (A)

Mittal