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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.91/94

New Delhi this the 14th Day of August, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Acting Chairman
Hon'ble Mr. B.N. Dhoundiyal, Member(A)

1. Sh. Raj Kamal,
S/o Sh. Chaman Lal,
R/o 1322, Gali Sanget Ration,
Paharganj, New Delhi.
 2. Sh. Murari Lal,
S/o Sh. Ram Chander,
109-B, Gali No.2, J.Extension,
Laxmi Narain, Delhi-92.
 3. Sh. Ganga Ram,
S/o Sh. Guru Pd.,
R/o Vill. Tatarpur Tesh. Palwal,
Distt. Faridabad. (Haryana).
 4. Sh. Rakan Singh,
S/o Sh. Tara Chand,
R/o Vill. Bodwal Majru,
Distt. Panipat. (Haryana)
 5. Sh. Gopal,
S/o Sh. Budh Singh,
R/o C-II, Lodhi Colony,
New Delhi.
 6. Sh. Haraf Singh,
S/o Sh. Meharban Singh,
R/o B-170, Kidwai Nagar,
New Delhi.
 7. Sh. Bhag Chand,
S/o Sh. Phondu Singh,
R/o K-25, Gali-3, West Hoda,
Sahdhra, Delhi-53.
 8. Sh. Girish Pal,
S/o Sh. Dammi Lal,
R/o 10/329, Khilri Pur,
Delhi-91.
 9. Sh. Lal Babu Yadav,
S/o Sh. Nagina Yadav,
R/o 13/152, Pandhkui Road,
New Delhi.
 10. Sh. Swami Nath,
S/o Sh. Nathumi Betha,
R/o J-II, Sunder Nagri,
Delhi-93.
 11. Sh. Sambu Rawat,
S/o Sh. Srinath Rawat,
C/o Panna Lal,
Vill. Hitarni, Mehroli Road,
Delhi-30.
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12. Sh. Rohtas,
S/o Sh. Mangal Sain,
R/o Karanpur,
Distt. Aligarh(UP).

Applicants

(By advocate Sh. V.P. Sharma)

versus

1. Union of India,
through the Secretary,
Ministry of Civil Supplies,
Consumer Affairs & P.D.,
Krishi Bhawan, New Delhi.

2. The Under Secretary,
to the Govt. of India,
Ministry of Civil Supplies,
Consumer Affairs & P.D.,
Krishi Bhawan,
New Delhi.

Respondents

(By advocate Sh. J.C. Madan, proxy counsel for
Sh. P.H. Ramchandani, Sr. Counsel)

ORDER

delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

This O.A. has been filed by 12 casual labourers of Ministry of Civil Supplies (Consumer Affairs & P.D.) challenging the order dt. 2.1.1994 whereby they are being denied (a) payment for Sundays/Saturdays and (b) weekly off, on the ground that they do not work for six days in a week. The applicants commenced working on different dates from 1983 to 1986 and were granted temporary status vide order dated 7.10.1993. This circular is that circular governed Government of India's Instructions dated 7.6.1988, 24.10.1984 and 10.9.1993, they are entitled to all the service benefits. They are aggrieved that after grant of temporary status, there has been infact a deterioration in their service conditions. Earlier they were getting the regular pay scale of Rs.750-940/- but after grant of temporary status, they have been brought on daily wages. Though they are performing the same duties as the regular group-D

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employees but they have been denied payment for Sundays/Saturdays and holidays. The applicants have prayed for a direction to the respondents to pay regular salary to the applicants including the salary for Sundays/Saturdays alongwith arrears/back wages.

In the counter-affidavit filed on behalf of the respondents, the main averments are these: It is not correct to say that all the applicants were getting regular pay scale of Rs.750-940/-. Only six of them were working as ad hoc peons on the date of confirmation of temporary status against vacancies of the regular peons who were officiating as LDCs. These posts were no longer available after their reversion and hence the ad hoc appointment of six of the applicants had to be terminated on account of non-availability of vacancies. They, were, however, engaged as casual labourers. All the 12 casual labourers, who have been granted temporary status are now getting wages at daily rate with reference to the minimum of the pay scale corresponding to regular group-D officials, including DA, HRA and CCA as prescribed in Department of Personnel & Training O.M. dated 10.09.1993. Referring to Rule 23 of the Minimum Wages (Central) Rules, 1950, The respondents have contended that an employee in a scheduled employment in respect of which minimum rates of wages have been fixed under the Act, shall be allowed a day of rest every week provided that the employee has worked in the scheduled employment under the same employer for a continuous period of not less than six days. Since the applicants do not work six continuous days, they are not eligible for full wages.

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We have gone through the records of the case and heard the learned counsel for the parties

D The learned counsel for the applicants has relied upon the judgement of this Tribunal in the case of Shri Raj Kamal & Ors. Vs. U.O.I. (O.A.No.2306/89) decided on 16.02.1990. In paragraph-14 of the said judgement, it is mentioned that according to the Office Memorandum dated 26.10.1984, the services of a casual worker may be regularised provided he has put in 240 days as a casual labourer or more of service as such, during each year. The requirement of 240 days was worked out with reference to 6-day week being observed in Central Government offices. However, some organisations are observing 5-day week. In view of this, it was mentioned in the said O.M. that in such organisations observing 5 day week, casual labourers may be considered for regular appointment if they put in two years of service as casual labourer, with 206 days of service during each year (as against the usual 240 days). Following this example, the weekly off should be given to them also in the organisations working for five day a week.

D The learned counsel of the respondents has drawn our attention to the operative part of the afore-mentioned judgement, wherein in para-29 (vi), it has been stated that the amoluments to be given to the applicants till their regularisation should be strictly in accordance with the orders and instructions issued by the Department of Personnel & Training. After their

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regularisation, they shall be paid the same pay and allowances as regular employees belonging to the Group 'D' category.

It is clear that the terms and conditions of service of the temporary casual labourers are to be in accordance with the Scheme circulated by the Department of Personnel & Training in their O.M. dated 10.9.1993. Paragraph-5 & 6 of the Scheme are reproduced:-

- "5. Temporary status would entitle the casual labourers to the following benefits:-
- i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including DA, HRA and CCA.
 - ii) Benefits of increment at the same rate as applicable to a Group 'D' employees would be taken into account for calculating pro-rate wages for every one year of service subject to performance of duty for atleast 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.
 - iii) Leave entitlement will be on a pro-rate basis at the rate of one day for every 10 days of work, casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.
 - iv) Maternity leave to lady casual labourers as admissible to regular Group 'D' employees will be allowed.
 - v) 50% of the service rendered under temporary status would be counted for the purpose of retirement benefits after their regularisation.

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- vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated at par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two sureties from permanent Govt. servants of their Department.
 - vii) Until they are regularised, they would be entitled to Productivity Linked Bonus/ad hoc bonus only at the rates as applicable to casual labourers.
6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in Industrial Establishments in view of Provisions of Industrial Dispute Act, they shall continue to be admissible to such casual labourers."

Even though the Scheme safeguards any additional benefit admissible to casual labourer working in Industrial establishments, in view of provisions of Industrial Disputes Act, it cannot be said that the benefit of weekly off will be available to those workers even if they worked only for 5 days in a week. They have to wait regularisation as Group 'D' workers for bringing their terms and conditions of service at par with regular employees.

In view of the above consideration, the application fails and is hereby dismissed.

No costs.

B. N. Dhoundiyal
(B.N. Dhoundiyal)

Member (A)

S. Dhaon
(S. Dhaon)
Acc. Chairman