

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

D.A. No. 1727/1994

New Delhi this the 10th of March 1995

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Hon'ble Mr. Justice B.C. Saksena, Vice Chairman

Hon'ble Mr. S.R. Adige, Member (A)

1. Jagdeep Singh Katoch s/o Sh.G.S. Katoch a/a 30yrs. R/o R4G-1/23, Mahabir Enclave, New Delhi-45, employed as Casual Labourer from 12.11.1982 and granted temporary status on 29.11.89 and treated at par with Group 'D' employees from 29.11.92 in the office of Air Mail Shorting Division, New Delhi-21
2. Prakash Chand-II S/o Sh. Sunder Ram a/a 33 years r/o D-1/353, Mahabir Encl., New Delhi-45 employed as casual labourer /at par with group 'D' in the office of Air Mail Shorting Division, New Delhi.
3. Sri Kishan-I S/o Sh. Jaimal Singh a/a 34 years r/o H.NO. 261-A, Village, Kunirka, New Delhi-110067, employed as casual labourer /at par with Group D employees in the office of Air Mail Shorting Division, New Delhi-21.
4. Mahinder Singh-II s/o Sh. Brij Lal a/a 34 years r/o R-18-A/1, Gali No.12, Kailash Puri, New Delhi employed as casual labourer /at par with Group 'D' employees in the office of Air Mail Shorting Division, New Delhi-21.
5. Surinder Singh s/o Sh. Mangat Ram a/a 33 years, r/o 4-1/8, Postal Colony, Janakpuri, New Delhi-58, employed as casual labourer /at par with Group 'D' employees in the office of Air Mail Shorting Shorting Division, New Delhi-21.
6. Charan Singh s/o Shri Sher Singh a/a 30 years r/o H.NO. ~~111~~ 119, Chirag Delhi, New Delhi-110017, employed as casual labourer /at par with Group (D) employees in the office of Air Mail Shorting Division, New Delhi-110021.
7. Shiv Dhari Ram s/o Sh. Samjhul Ram a/a 36 years r/o No. R-18, Dr. Ambedkar Basti, West Block-I, R.K. Puram New Delhi-110066, employed as a casual labourer /at par with Group 'D' employees in the office of the Air Mail Shorting Division, New Delhi-110021.
- Puran Singh S/o Sh. Shaber Singh a/a 33 years r/o CSP-27, Safdar Jang Enclave, New Delhi, employed as causal labourer /at par with Group 'D' employees in the office of Air Mail Shorting Division, New Delhi-110021.
- Arinder Kumar s/o Shri Maya Dhari a/a 33 years r/o C-182, Jeewan Park, Uttam Nagar, New Delhi-59, employed as casual labourer /at par with Group 'D' employees in the office of Air Mail Shorting Division, New Delhi-110021.

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10. Harpal Singh s/o Sh. Amar Singh a/a 32 years r/o Village & P.O. Kasan, Distt. Gurgaon, Haryana, employed as casual labourer/at par with Group D, employees in the office of Air Mail Shorting Division, New Delhi-110021.
 11. Shri ~~Kishan~~ Yoginder Singh s/o Shri Padam Singh a/a 33 years r/o R.L.G-280, Raj Nagar-II, New Delhi-45, employed as casual labourer/at par with group D employees in the office Air Mail Shorting Division, New Delhi-110021.
 12. Prem Singh s/o Shri Radhey Shyam a/a 36 years, r/o R.L.G-85/1, Durga Park, New Delhi-45, employed as casual labourer/at par with Group D employees in the office of Air Mail Shorting Division, New Delhi-110021.
 13. Ashok Kumar-I, s/o Sh. Net Ram a/a 30 years, r/o Village and post office Kapeshera, New Delhi-37, employed as casual labourer/at par with Group D employees in the office of Air Mail Shorting Division, New Delhi-21.
 14. P. Marko s/o P. Ankhia a/a 30 years r/o Jhuggi No. 518, Kankadurg Colony, Near R.K. Puram, New Delhi, employed as casual labourer/at par with Group 'D' employees in the office of Air Mail Shorting Division, New Delhi-110021.
 15. Bhaskar Anand s/o Sh. Chander Mani a/a 35 years r/o L-226, Kutub Vihar, Goal a Diary, New Delhi, employed as casual labourer /at par with Group D employees in the office of Air Mail Shorting Division, New Delhi-110021.
 16. Sh. Ramesh s/o Sh. Singh Ram a/a 35 years r/o H.NO.W4-258, Harijan Colony, Tilak Nagar, New Delhi-18, employed as casual labourer/at par with Group D employees in the office of Air Mail Shorting Division, New Delhi-110021.
 17. Shri Dharam Pal s/p Sh. Jagdish Ram a/a 30 years r/o H.NO.80/1, Village Dinchau Kalan, New Delhi-12, employed as casual labourer/at par with Group D employees in the office of Air Mail Shorting Division, New Delhi - 110021.
 18. Sh. Rajinder s/o Sh. Gorodhan Ram a/a 33 years r/o H.NO.192, D Block, Bhart Bihar, New Delhi-45, employed casual labourer/at par with group D employees in the office of Air Mail Shorting Division, New Delhi-110021 .
 19. Sh. Ramesh Kumar s/o Sh. Kashi Ram a/a 32 years r/o A-10, Mohammedpur, Village, New Delhi-66 employed as casual labourer/at par with Group D employees in the office of Air Mail Shorting Division, New Delhi-110021.

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20. Ashok Kumar-II s/o Sh. Jeet Ram a/a 32 years r/o Village Mahipalpur, New Delhi-37 employed as casual labourer/at par with Group D employees in the office of Air Mail Shorting Division, New Delhi-21.
21. Pradeep Kumar s/o Sh. Fateh Singh a/a 32 years r/o D-6 Palam Air Port, New Delhi-37 employed as casual labourer/at par with Group D employees in the office of Air Mail Shorting Division, N.Delhi.
22. Mahinder Singh -I s/o Sh. Banwari Lal a/a 34 years, r/o R4-245, Raj Nagar-II, New Delhi-45 employed as casual labourer/at part with group D employees in the office of Air Mail Shorting Division, New Delhi.
23. Raj Kumar -III s/o Sh. Mehtab Singh a/a 33 years r/o H.NO. 25, Ram Gali Nanak Chand Basti, Village Kotla Mubarkpur, New Delhi, employed as casual labourer /at part with group D employees in the office of Air Mail Shorting Division, New Delhi-110 021.

... Applicants

(By Advocate: Shri S.R. Dwivedi)

Versus

1. The Union of India through the Secretary, Department of posts, Ministry of Communications, New Delhi- 110 001.
2. The Chief Post Master General, Delhi Postal Circle, Neghdoot Bhawan, New Delhi-110 001.

... Respondents

(By Advocate : Shri M.K. Gupta)

ORDER

Hon'ble Mr. Justice B.C. Saksena, Vice Chairman

This O.A. has been filed by 23 applicants for a direction to be issued to the respondents to allow them to appear in the departmental examination for promotion to Group 'D' posts. The departmental examination was scheduled to be held on 29.5.1994.

2. The applicants' case is that they were initially appointed as Casual Labourer on various dates in the Postal Department. A Civil Writ Petition No. 1119/86

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was filed alongwith other writ petitions which were decided by the Hon'ble Supreme Court by a common judgement dated 29.11.1989. On the basis of the said decision the applicants' claim is that as casual labourers who had completed three years continuous service they were conferred with temporary status and were to be treated at par with temporary Group 'D' employees of the department and thereby entitled to such benefits as are admissible to Group 'D' employees appointed on regular basis.

3. . . The respondents have filed a counter affidavit. In the counter affidavit the stand of the respondents is that the casual labourers were conferred a temporary status with effect from 29.11.1989. The conferment of temporary status brought them at par with temporary Group 'D' employees and they have been made eligible to certain benefits which are admissible to temporary Group 'D' employees which are enumerated in the letter dated 30.11.1992 Annexure A-1 of the O.A. The respondents have also indicated that recruitment rules called the Department of Posts (Postal Assistants and Sorting Assistants) Recruitment Rules, 1990 were notified in the official gazette. The said rules were framed by the President in exercise of the powers conferred by the proviso to article to article 309 of the Constitution of India. Copy of the rules is Annexure R-2 alongwith the counter affidavit. The recruitment rules provide that permanent officials belonging to certain categories enumerated therein would be eligible to be considered for promotion through departmental promotion exam to the extant of 50 per cent of the vacancies. The rest 50 per cent were to be filled by direct recruitment.

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After the counter affidavit was filed, the applicants filed a Miscellaneous Application No. 430/1995 to seek amendment of the petition and to challenge the Notification dated 27.12.1990 by which the service rules were notified

4. The principal submission made by Shri S.R. Dwivedi, the learned counsel for the applicant, was that the service rules are violative of the judgement dated 29.11.1989 rendered by the Hon'ble Supreme Court. As far as this aspect of the matter is concerned, we find that the Contempt Petition was filed before the Hon'ble Supreme Court which was numbered as Contempt Petition No. 289/1990 ^{arising out of} / Writ Petition Nos. 302 and 3119/1986. The contempt Petition was dismissed as withdrawn by an order dated 18.11.1992. The said order has been placed on record. Also on record ^{is} a copy of the affidavit filed by the respondents in the contempt Petition. Alongwith the said counter affidavit, copy of the Notification dated 12.4.1991 had been filed. The said Notification contains a scheme drawn up by the department in compliance with the direction of the Hon'ble Supreme Court in the judgement dated 29.11.1989. In paragraph 7 of the scheme it has very clearly been indicated that "Conferment of Temporary Status does not automatically imply that the casual labourers would be appointed as a regular Group 'D' employee within any fixed time frame. Appointment to Group 'D' vacancies will continue to be done as per the extant recruitment rules, which stipulate preference to eligible ED employees." Various other provisions in this scheme also support the stand taken by the respondents that

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conferment of temporary status does not imply that the casual labourers are appointed as regular Group 'D' employees. They are placed at par with temporary Group 'D' employees for admissibility of certain benefits and privileges. Also on record is a copy of Notification dated 30.11.1992 which was filed by the respondents through their counter affidavit in the Contempt Petition. That also goes to show that certain benefits admissible to temporary Group 'D' employees and which has been enumerated in the said Notification has been made applicable to such casual labourers who on completion of three years of service acquire a temporary status as per the scheme drawn up pursuant to the judgement of the Hon'ble Supreme Court dated 29.11.1989. Thus, the position that emerges is that under the decision of the Hon'ble Supreme Court the applicants were not entitled to be treated as permanent Group 'D' employees. The validity of the service rules as noted hereinabove has been challenged on the ground that they violate the aforesaid judgement of the Apex Court. There is no force in this submission. The order dismissing the Contempt Petition was passed after the respondents had placed on record the scheme drawn up by them and notified by letter dated 12.4.1991 and also the service rules notified by Notification dated 27.12.1990 and other relevant documents. We have also been taken through the judgement of the Hon'ble Supreme Court aforementioned which is reported in JT 1989 (Supp) SC P 364. The learned counsel for the applicant laid great emphasis on the last part of the paragraph 12 of the judgement. In the said paragraph the claim for parity as regards

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House Rent Allowance, City Compensatory allowance and Maternity Leave were being considered. In respect of the said matters, the Hon'ble Supreme Court held that there was no justification for treating employees of the Postal Department differently from those covered under the regularization rules in the Telecommunication Department. The last part of paragraph 12 on which the learned counsel for the applicant laid great emphasis cannot be torn out of context. The said observation related to the question that was being considered, namely, equality as regards House Rent Allowance, City Compensatory Allowance, Maternity Leave.

5. There is no merit in the O.A., it is accordingly liable to be dismissed and the O.A. is hereby dismissed. No costs.

Arif Ali
(S.R. Adige)

Member (A)

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(B.C. Saksena)
Vice Chairman

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