

Central Administrative Tribunal  
Principal Bench, New Delhi.

OA-1890/94

New Delhi this the 10th Day of November, 1994.

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

1. Sh. Subhash Luhera,  
S/o Sh. Kanehya,  
R/o 47, Jamsedpur,  
Greater Kailash,  
New Delhi-48.
2. Sh. Kamal,  
S/o Sh. Ramphool,  
R/o Mandi Village,  
New Delhi-47.
3. Sh. Brahamjit,  
S/o Sh. Sohan Lal,  
R/o Jhuggi No.52,  
Jal Vihar, Lajpat Nagar,  
New Delhi. Applicants

(by advocate Sh. A.K. Bhardwaj, counsel)

versus

1. Union of India,  
through its Secretary,  
Ministry of Science & Technology,  
Technology Bhawan,  
New Mehrauli Marg,  
New Delhi-16.
2. The Under Secretary,  
Govt. of India,  
Ministry of Science & Technology,  
Technology Bhawan,  
New Mehrauli Road,  
New Delhi. Respondents

ORDER(ORAL)  
delivered by Hon'ble Mr. Justice S.K. Dhaon, V.C.(J)

A counter-affidavit has been filed on  
behalf of the respondents. A rejoinder-affidavit too  
has been filed.

The learned counsel for the parties have  
been heard.

Although this O.A. has not been admitted so far, we are disposing it of finally with the consent of the learned counsel for the parties.

For the purpose of disposing of this application, we may accept the averments made in the counter-affidavit, as correct. Therein, the material averments are these. The three applicants before us (S/Sh. Subhash Luhera, Kamal & Brahamjit) were engaged as casual workers in the Ministry of Science & Technology on being sponsored by the Employment Exchange with effect from 4.8.1989, 3.5.1989 & 6.12.1989 respectively. They continued to work as casual workers till the termination of their services with effect from 1.10.1994.

In main, two reliefs have been claimed in this application. They are; (i) The notice dated 2.9.1994 proposing to terminate the services of the applicants on expiry of the period of one month from the date of notice may be quashed. (ii) The respondents may be mandated to regularise the services of the applicants as group 'D' employees with all consequential benefits.

It appears to be an admitted position that the matter is now governed by the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993". The Scheme provides that a casual labourer who has acquired temporary status can be brought on the permanent establishment through a regular selection

process. In the counter-affidavit filed, it is stated that on 28.4.1994, the Selection Committee which had earlier interviewed the casual workers, including the applicants, recommended the regularisation of the services of 8 casual workers. However, the applicants were not found suitable for regularisation. This conclusion was based on their assessment reports and performance in the interview. The Selection Committee recommended that the regularisation of the applicants may be considered in due course of time after watching their performance. The Selection Committee on 20th - 21st October, 1994 interviewed the candidates for the purposes of regularisation in the 5 existing posts. The applicants alongwith others were interviewed. The decision of the Selection Committee is awaited. Keeping in view the guidelines issued by the Department of Personnel & Training regarding the ban upon the engagement against regular sanctioned posts, the services of the applicants had been terminated by issuing one month's notice dated 2.9.1994.

We shall first deal with the question of legality of the termination of the services. Indisputably, the applicants were working as casual workers against regular sanctioned posts. The guidelines issued by the Department of Personnel & Training prohibits such an engagement. Therefore, the respondents were justified in issuing the notice of termination of the services of the applicants. Even the Scheme, afore-mentioned, contemplates that

is

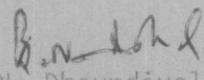
despite confirmation of temporary status, the services of casual workers may be dispensed with by giving a month's notice in writing. This has been done in the present case. We, therefore, see no reason to interfere with the notice given to the applicants. The learned counsel for the respondents has stated at the Bar that if and when the respondents feel the necessity of engaging casual workers, they shall consider the cases of the applicants and give them preference over freshers and juniors. This undertaking is being recorded. The clear understanding is that the respondents shall treat the undertaking as a direction issued by this Tribunal.

As already indicated, the Scheme itself contemplates a process of selection for the purpose of bringing a casual worker with temporary status on permanent establishment. In the O.A., there is not even a whisper in relation to the legality of the proceedings of the Selection Committee. No allegation of malafide or ulterior motive has been made against any Member of the Selection Committee. The decision of the Selection Committee of the interview held on 20-21/10/1994 is still awaited. That Committee is directed to declare its recommendations as expeditiously as possible but not beyond a period of one month from today. If the applicants are found fit by the Committee, the respondents shall act upon the same.

S.M.

It has come up in the counter-affidavit that the Selection Committee held on 28.4.1994 recommended that the applicants should be given temporary status. According to the respondents, such a status was given to the applicants some time in July, 1994. We have read and reread the Scheme and we are of the opinion that temporary status should be given to a workman, who otherwise fulfills the requirements of the Scheme with effect from 1.9.1993. In the O.A. there is no complaint whatsoever that the applicants had not been given the benefit of temporary status with effect from 1.9.1993. Therefore, we cannot adjudicate upon this question. However, we make it clear that if the benefits have already not been given to the applicants from the said date, it will be open to them to make an appropriate representation to the authority concerned. If that is done and if the authority concerned feels that the applicants either cannot be given the benefits or should not be given the benefits from the said date, they shall pass a speaking order. Thereafter, it will be open to the applicants to seek their remedy, if any, before an appropriate forum.

In view of the foregoing discussions, the applicants are not entitled to any substantial relief. However, with the aforesaid directions, we dispose of the O.A. finally but without any order as to costs.

  
(B.N. Dhaon)  
Member(A)

  
(S.K. Dhaon)  
Vice-Chairman