

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1551 of 2000

with

Original Application No.1552 of 2000

New Delhi, this the *27th* day of December, 2000

HON'BLE MR.KULDIP SINGH, MEMBER (JUDL)

OA 1551/2000

1. Anil Kumar
2. Vijender Kumar
3. Vijay Singh
4. Bhupinder Singh
5. Vinay Kumar Singh
6. Vinod
7. Sanjay Kumar
8. Bharat Bhushan
9. Kumar Gaurav
10. Davender Singh
11. Rajinder Singh
12. Anil Kumar
13. Lokesh Chaud
14. Om Bir
15. Samar Pal Singh
16. Santer Pal Singh
17. Satya Prakash Singh
18. Rakesh Kumar Dubey
19. Manoj Kumar
20. Naresh Kumar
21. Shashi Kontr
22. Dalip Kumar
23. Sanjay Kumar
24. V. Kumar
25. Naresh Kumar
26. Neeraj Kumar

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27. Jintener Kumar
28. Ravinder Kumar
29. Pritam Kumar
30. Dev Dutt Sharma
31. Anil Kumar
32. ~~Ravindra Bhatt~~ Shri. Manveer Singh
33. Jagdish Kumar
34. Vinod Kumar

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-APPLICANTS

(All working as Badli Workers in Delhi Milk Scheme)

Correspondence Address

C/o R.S. Rawat, Advocate
R/o 2151/17A/12, New Patel Nagar,
New Delhi.

OA 1552/2000

Mohinder Singh S/o Shri Baljeet Singh
Badli Worker, DMS,
New Delhi-110 008.

...Applicant

By Advocate Shri R.S. Rawat.

Versus

1. Union of India
Through the Secretary,
Ministry of Agriculture,
(Department of A.H. & Dairying)
Krishi Bhawan,
New Delhi-110 001.

2. General Manager,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi-110 008.

...Respondents

By Advocate Shri V.S.R. Krishna.

O R D E R

By Hon'ble Mr. Kuldeep Singh, Member (Judl)

By this common order I will decide two separate OAs bearing No.1551/2000 and 1552/2000 as both the OAs have the same common facts and common relief is being asked for.

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① Deleted and added vide Court's order dated 17.5.2007

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2. In both the OAs the applicants are aggrieved of the fact that the respondents are not regularising them on the regular post of Mates despite the fact that applicants have completed more than 240 days of working attendance in a period of 12 months w.e.f. January/February, 1999 to December 1999 in the case of applicants in OA 1551 of 2000 and w.e.f. January, 1999 to December, 1999 in the case of applicant in OA No.1552 of 2000 and they have become entitled for being transferred to the regular establishment of the Mates.

3. The applicants further allege that the service conditions of the Badli Workers are governed by the Certified Standing Orders issued by the Certifying Officer and Chief Labour Commissioner, New Delhi which was issued on 15.6.62 under the Industrial Employment (Standing) orders, copy of the same has been annexed as Annexure-III. It is also stated that in accordance with the Standing Orders any Baldi Worker who completes 240 days of working attendance in a period of 12 months, is entitled to be transferred to the regular establishment of Mates and since all the applicants have completed more than 240 days, so they are entitled to be transferred to the staff of regular establishment.

4. The respondents are contesting the OA. They admit that the service conditions of the regular employees are governed by the Fundamental and Supplementary Rules and the Badli Workers by the Certified Standing Orders. They also pleaded that Badli

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Worker is engaged whenever a regular employee is absent and Badli means a worker who is employed in place of regular employee who is temporarily absent.

5. The respondents further admit that these applicants have been employed as Badli Workers from time to time whenever a regular employee is temporarily absent.

6. The respondents also admit that Badli Worker who completes 240 days in a complete year (12 months) is transferred to the regular establishment but in the present case it is pleaded that none of the Badli Workers has completed 240 days of work on the date of filing of the OA and thus the statements of the applicants that they have completed more than 240 days is wrong and denied.

7. Besides that the respondents have also pleaded that consequent upon increase in price of milk, the production has gone down so need for regularising the Badli Worker has come down drastically.

8. I have heard the learned counsel for the parties and have gone through the records of the case.

9. During the course of the arguments, the controversy has been narrowed down as the respondents have raised an objection that the applicants have not completed 240 days of attendance in a working year so they are not entitled to be transferred to the regular establishment of mates. In response to this Shri Rawat appearing for the applicants submitted that for the

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purpose of counting 240 days, the weekly offs and the National holidays if added then the number of days put in by each Badli Worker goes beyond 240 days and it has been so pleaded even in the rejoinder.

10. The learned counsel for the applicants further submitted that the Badli Workers are also being paid wages for regular weekly offs so they are entitled to count 52 weekly offs per year as working days along with the dates on which they have actually worked.

11. On the contrary, Shri V.S.R. Krishna, appearing for the respondents submitted that Badli Worker is employed purely on temporary basis to work against those vacancies on which the regular employees are temporarily absent and Badli Worker is never engaged on weekly offs nor he is ever paid for the same because the department cannot pay twice for the holidays for the same post and as such the Badli Worker has not been paid on weekly off days.

12. Now the only question which survives to be determined is whether the weekly offs are to be counted for counting the period of 240 days or not. The learned counsel for the applicants has relied upon the judgment given by the Hon'ble Supreme Court in H.D. Singh Vs. Reserve Bank of India, 1985 SC C (L&S) 975 wherein it has been held that Sundays/Weekly Offs and 17 holidays are to be added to the number of working days for the purpose of computing of 240 days working days. The counsel for the applicants has also referred to a earlier judgment in OA 37/88 decided on 10.8.89 in the case of Pramod Kumar and

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Others Vs. Union of India and Others wherein the judgment of H.D. Singh Vs. RBI was also considered. On going through the entire judgment I find that OA 37/88 was heard by a Division Bench. The Division Bench had taken note of the judgment given by the Hon'ble Supreme Court in H.D. Singh's case (Supra) and found that the Hon'ble Supreme Court had allowed the counting of Sundays and holidays and based on that judgment the Division Bench had also allowed the OA and directed the respondents to transfer the Badli Worker to the regular establishment from a particular date, so in this case also as per the showing of the respondents, Annexure R-1, most of the workers had worked for periods ranging between 199 to 229 days and if the benefit of weekly offs and three National holidays, as claimed by the applicants are given, then some of them may have completed 240 days in a period of 12 months. Relying upon the decision given by the Division Bench, I also feel that the judgment given by the Division Bench is binding on the facts and circumstances of these cases also as the applicants are similarly placed Badli Workers, hence the OAs, have to be allowed.

13. In view of the above, OAs are allowed with the following directions:-

(1) The respondents while counting the period of actual working days of the applicants (Badli Workers) shall also add the number of weekly offs and three National holidays in the number of actual working days of the applicants if not already counted and out of those workers who are found to have completed 240 days then in


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accordance with the provision of para 4 (iii) of the Standing Orders, the said Badli Worker shall be transferred to the regular establishment.

(ii) Applicants will not be entitled for any back wages.

(iii) No costs.

Let a copy of this order be placed in OA Nos. 1551 and 1552 of 2000.


(KULDIP SINGH)
MEMBER (JUDL)

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