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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1888/2000

New Delhi, this the 17th day of October, 2001

Hon'ble Shri S.A.T. Rizvi, Member (Admn)

1. B.M.Singh
Sr. Technician
Central Pollution Control Board
Zonal Office
Kanpur
2. Farzana Ansari
LDC
Central Pollution Control Board
Zonal Office
Kanpur
3. Rajiv Kumar
Data Entry Operator
Central Pollution Control Board
Zonal Office
Kanpur
4. B.D.Pandey,
Junior Laboratory Attendant
Central Pollution Control Board
Zonal Office
Kanpur
5. V.K.Aggarwal
Accounts Assistant
Central Pollution Control Board
Zonal Office
Kanpur
6. S.S.Shukla
LDC
Central Pollution Control Board
Zonal Office
Bhopal
7. Mohd. Salamuddin
Driver
Central Pollution Control Board
Zonal Office
Bhopal

...Applicants

(By Advocate: Shri L.B.Rai)

Versus

1. Union of India
through its Secretary
Ministry of Environment and Forests
Parivaran Bhawan
CGO Complex, Lodi Road
New Delhi
2. Central Pollution Control Board
through its Chairman
Parivaran Bhawan

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East Arjun Nagar
Delhi-32.

3. The Member (Secretary)
Central Pollution Control Board
Paryavaran Bhawan
East Arjun Nagar
Delhi-32.

4. Incharge
Central Pollution Control Board
Zonal Office
Kanpur

5. Incharge
Central Pollution Control Board
Zonal Office
Bhopal

... Respondents

(By Advocate: None)

O R D E R

The applicants, 7 in number, have been appointed by the Central Pollution Control Board (CPCB), respondent No.2 herein, on adhoc basis by way of purely temporary appointments made in 1992 in one case, in 1993 in another and in 1995 in the remaining five cases. Accordingly, the applicants have continued to work as such with appointment letters issued from time to time on the same basis, continuing their respective terms. While they have been engaged and have worked in broken spells, the services rendered by them after 6.1.1997 are stated to have been continuous. In Jan/March, 1997, temporary status was conferred on the applicants. In the year 2000, the applicants apprehended termination of their services and rushed to this Tribunal by filing the present OA. They succeeded in securing an ad-interim order of stay on 15.9.2000. Their grievance is that while they have been working as above rendering services as Senior Technician, LDC, Data Entry Operator, Jr. Laboratory Attendant, Accounts Assistant and Driver all these years, the

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respondents have, by deliberate action, failed to regularise their services besides denying them the benefits of pay scales applicable to the aforesaid posts and the recommendations of the 5th Central Pay Commission.

2. The learned counsel appearing on behalf of the applicants has, for seeking various reliefs in the present OA, relied on the order passed by this very Tribunal in OA-1945/2000 on 16.2.2001. In that OA, the applicant had been engaged by the same respondent to work in a project. Further, the order was passed in that OA by placing reliance on order dated 17.8.1998 passed by this very Tribunal in OA-2985/97 (along with two other connected OAs). In passing orders in the said OA (OA-2985/97), the Tribunal had in turn relied on the orders passed by this Tribunal in the case of Dr. (Mrs.) Sangeeta Narang & Ors. Vs. Delhi Admn. & Ors., ATR 1988 (1) CAT 556. This is what was decided by this Tribunal in OA-1945/2000:-

"11. In the background of the above discussion, I find that it would be just, fair and proper to dispose of this OA with the following directions to the respondents for compliance by them fairly and carefully and as expeditiously as possible.

i) XX XXX XX XX XXX

ii) The applicant will be entitled to receive payments taking into account the basic pay, DA, HRA, CCA etc. as applicable to regular employees working as DEO Gr.-II following the principles of equal pay for equal work. The applicant will also be entitled to all consequential benefits from the date of his first appointment on 3.10.96 ignoring the breaks in service which could be treated as leave of the kind due.

iii) As and when a regular vacancy in the rank of DEO Gr.-II is required to be filled up in the respondents' establishment, the applicant will be allowed to prefer an application notwithstanding the fact that he

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may have in the meantime crossed the upper age limit fixed for such recruitment. The respondents will, in the case of the applicant, grant suitable age relaxation to enable him to apply and be considered in accordance with the aforesaid Regulations of 1995."

3. The respondents have, in their pleadings placed on record, stated that, barring applicant Nos. 1 and 4, the names of the applicants had not been sponsored by the Employment Exchange, nor had they applied against any advertisement. The procedure for recruitment laid down in the relevant recruitment rules of 1995 had also not been followed in making their appointments and, therefore, the relief sought herein cannot be granted. They have also stated that in the present OA, there is no joint cause of action as the facts relating to the various applicants are different from each other. Hence, they cannot join in a common petition.

4. I have considered the matter carefully in the light of the submissions made by the learned counsel appearing on behalf of the applicants and the pleadings filed by the respondents.

5. The learned counsel for the applicants has submitted that where necessary competitive test (written) was held before the applicants were appointed. They were also interviewed by a selection committee. They have been serving the respondents for several years and have become over age and cannot, therefore, apply for direct recruitment against regular vacancies, such as, may be notified by the respondents in future. Non-payment of salary and allowances on par with those performing similar

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duties and responsibilities as regular post holders is also an act of discrimination hit by Articles 14 & 16 of the Constitution. Since all of them are aggrieved by inaction on the part of the respondent-authority in not making payments of pay and allowances as above and also refraining from taking steps to regularise their services, their right to file a common petition cannot be questioned. Similarly, the fact that the names of some of them were not initially sponsored by the Employment Exchange will also not stand in their way for being considered in future for direct recruitment totally in accordance with the relevant recruitment rules subject only to age relaxation.

6. I am inclined to agree with the aforesaid submissions made on behalf of the applicants and proceed to dispose of the OA in the same terms in which OA-1945/2000 was disposed of. Accordingly, the respondents are directed as follows:-

i) The applicants will be entitled to receive payments taking into account the basic pay, DA, HRA, CCA etc. as applicable to regular employees working in similar capacities following the principles of equal pay for equal work. The applicants will also be entitled to all consequential benefits from the dates of their initial appointments ignoring the breaks in service which will have to be treated as leave of the kind due.

ii) As and when regular vacancies in the rank of Sr. Technician, LDC etc. are required to be filled up in the respondents' establishment, each of the applicants will

be informed in that regard and will be allowed to prefer an application notwithstanding the fact that they may have in the meantime crossed the upper age limit fixed for such recruitment. The respondents will, in respect of each applicant, grant suitable age relaxation to enable them to apply and be considered in accordance with the aforesaid Regulations of 1995. It is clarified that the various applicants herein will be considered as above only in respect of posts of Sr. Technicians, LDCs, Account Asstts. etc., the responsibilities of which they are discharging at present respectively.

iii) Payments which become due to the applicants by virtue of the directions contained in (i) above will be made over to the applicants in a maximum period of three months from the date of receipt of a copy of this order.

7. The present OA is disposed of in the aforesated terms. No costs.

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S.A.T. Rizvi

(S.A.T. Rizvi)
Member (A)

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