

Central Administrative Tribunal, Principal Bench

O.A.No.1155/2000 with O.A.1396/2000 and
O.A.1910/2000, M.A.Nos.2074/2000 & 3078/2000

New Delhi, this the 28th day of May, 2001

(5)

Hon'ble Mr. V.K. Majotra, Member(A)
Hon'ble Mr. Kuldip Singh, Member (J)

O.A.1155/2000

Jai Prakash
Badli Worker
Delhi Milk Scheme
West Patel Nagar
New Delhi-110008

- Applicant

O.A.1396/2000

1. Chet Ram	Badli Worker, Delhi Milk Scheme
2. Jai Bhagwan	-do-
3. Roop Basant	-do-
4. Chand Bir	-do-
5. Bachu Kumar	-do-
6. Jai Kanwar	-do-
7. Ram Yesh	-do-
8. Kalam Singh	-do-
9. Jagat Singh	-do-
10. Manoj Kumar	-do-

Corresponding Address

C/o Shri R.S. Rawat, Advocate
2151/17A/12, New Patel Nagar,
New Delhi-8

- Applicants

O.A.1910/2000

1. Vinod Kumar	Badli Worker, Delhi Milk Scheme
2. Suresh Prasad	Badli Worker, Delhi Milk Scheme
3. Ramesh Kumar	Badli Worker, Delhi Milk Scheme
4. Parmod Kumar	Badli Worker, Delhi Milk Scheme

Corresponding Address

C/o Shri R.S. Rawat, Advocate
2151/17A/12, New Patel Nagar,
New Delhi-8

- Applicants

(By Advocate: Shri R.S. Rawat in all the OAs)

Versus

1. Union of India
through the Secretary
Ministry of Agriculture
(Dept. of A.H. & Dairying)
Krishi Bhawan,
New Delhi-110001

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2. The General Manager,
Delhi Milk Scheme
West Patel Nagar
New Delhi-110008

- Respondents

(6)

(By Advocate - Shri K.R.Sachdeva in all the OAs)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J)

By this order, we will be disposing of three OAs involving common question of law.

2. The applicants in all the three OAs have prayed for a direction to transfer them to the regular establishment of Mates so that they be governed by the Fundamental and Supplementary Rules as they have completed more than 240 days in a period of 12 months in accordance with the standing orders. The applicants allege that they have been working as Badli Workers in the establishment of respondents and according to the Certified Standing Orders any casual worker who has completed 240 days of service in a period of 12 months is entitled to be transferred to regular establishment of Mates and to be governed by Fundamental and Supplementary Rules.

3. The OA is being contested by respondents on the ground that there is no regular vacancy in the grade of Mate and the applicants are well aware of this position. Respondents have submitted that as soon as regular vacancies would be available, they will transfer the applicants to the regular establishment of Mate subject to eligibility, suitability and necessary legal formalities.

4. Second plea taken by the respondents is that applicants have not completed 240 days of service in 12 months of an years, therefore, they are not entitled

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for regularisation on the post of Mate.

5.. We have heard Shri R.S. Rawat for the applicants and Shri K. R. Sachdeva for the respondents.

6.. Learned counsel for the applicants has referred to a judgement of the Tribunal in the case of DMS Employees Union vs. UOI & ors. (O.A.1059/87). In the said case which was filed by similarly situated persons, the Tribunal observed as under:

"(a) The respondents should accord to the daily rated Mates (Badli workers) who are concededly performing the same duties as regular class IV Mates, the same salary and conditions of service other than regular appointment, as are being received by the regular class IV Mates from the dates of their appointment as Badli Worker.

(b) These daily rated Mates who have actually worked for not less than 240 days in any period of 12 months should be transferred to the regular establishment with effect from the first day of the month immediately following the 12th month of the said period. The gap if any in their employment subsequent to the date of such regularisation should be treated as leave with or without pay as due or 'dies non' as the case may be. Supernumerary posts in the regular establishment may be created if necessary for this purpose.

(c) The respondents should issue necessary orders and make good the payments of arrears of salary etc., within a period of four months from the date of communication of this order."

7.. Learned counsel for the applicants has referred to another judgement in OA nos. 2415/97 with OA-2414/97 filed by similarly situated persons, which was also allowed by the Tribunal and the plea of the respondents of non-availability of posts was negatived in that judgement.

8.. Keeping in view the above judgment and since the applicants are also similarly placed persons, we are of

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the considered opinion that the plea of the respondents of non-availability of posts for transferring the applicants to the regular establishment of Mate, is not applicable in the present cases also. As far counting of 240 days of service in respect of applicants is concerned, learned counsel for the applicants has referred to a judgement of the Tribunal in O.A.Nos.1551/2000 and 1552/2000.

9. After going through the judgement in OA Nos.1551/2000 and 1552/2000, referred to above, we are convinced that the present cases are fully covered by the judgement in those OAs. Accordingly, we dispose of the present OAs 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 accordance with the provisions of para 4(iii) of the standing Orders, the said Badli Worker shall be transferred to the regular establishment; and

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

10. The above directions shall be implemented by respondents within a period of three months from the date of receipt of a copy of this order. No costs.

Let a copy of this order be placed in OA Nos. 1155/2000, 1396/2000 and 1910/2000.

Kuldeep Singh
(Kuldeep Singh)
Member(J)

V.K. Majotra
(V.K. Majotra)
Member(A)

Attested

Abijit
Co. 30157201
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