

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA/TA No

Bhanwar Lal S/o.....APPLICANT(S)

Vs.

U.O.I. S/o.....RESPONDENTS(S)

The above noted case was decided vide Judgment/Order dated 31/7/01 by the Bench comprising of :

Hon'ble Mr. Kuldeep Singh, Member(J) (Retired)

Hon'ble Mr. _____

The Applicant(s)/Respondent(s) in the above noted case filed CWP/CMP No. RA 38/08 in the High Court and the Hon'ble High Court vide

CWP 5650/2002 in the High Court and the Hon'ble High Court vide Order/Judgment dated 21/4/09 has been pleased to :-

- (a) Dismiss/admitted the CWP/CMP. R.A in CWP 5650/2002.
- (b) Set aside the Order/Judgement of this Tribunal.
- (c) stayed the operation of the Judgement of the Tribunal.
- (d) Modified/Substituted the judgement/order of the Tribunal.
- (e) Disposed the CMP/CWP.

Submitted for perusal of Hon'ble the Chairman and Hon'ble Members of the Bench.

Joint Registrar

Parry
20/5/09

Antil Bhawali

Pr. Registrar

21/5/09

21/5
Deputy Registrar(J)

Hon'ble Chairman

AK
21/5/09

Hon'ble Mr.

DRD
21/5

Hon'ble Mr.

21/5
SO (T-1)

67-2318/2

FORM NO. 215501 CT-1997

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

SB/DB

SB

REPORT ON THE SCRUTINY OF APPLICATION

Diary No. 2355

Presented By : S. M. Lag Date of Presentation 2.11.2012

Applicant (s) Bhawna Lal and others Cased

Respondent (s) Union of India Cased

Nature of grievance : Registration 2

No. of applicants : 26 No. of Respondents: 2

CLASSIFICATION

Subject : Cased (No.) Department : Agriculture (23) * if S.B.

1. Is the application in the proper form? (PROFORMA / COMPILATION)

(three complete sets in paper book form

in two compilations).

2. Whether name, description and address of all the parties been furnished in the cause title? Yes ✓ ✓

3. (a) Had the application been duly signed, and (SIGNED / VERIFIED)

verified ?

(b) Have the copies been duly signed? Yes ✓

(c) Have sufficient number of copies of the application been filed? Yes ✓

4. Whether all the necessary parties are impleaded? Yes ✓

5. Whether English translation of documents in a language other than English or Hindi been filed? Yes ✓

6. (a) Is the application in time? (See Section 21) Yes ✓

(b) Is MA for condonation of delay filed? M

Has the Vakalatnama/Memo of appearance/00 authorisation been filed? Yes ✓

8. Is the application maintainable? U/s 2, U/s 14, U/s 18 (U/s 2, 14, 18 or U/R 6 etc). U/R 6, PT U/s, 25 file

9. Is the application accompanied by IPO/DD for Rs. 50/-? Yes ✓ No ✓

10. Has the impugned orders original/duly attested legible copy been filed? LEGIBLE/ATTESTED

11. Have legible copies of the annexure duly LEGIBLE/ATTESTED attested been filed?

12. Has the index of documents been filed and pagination done properly? FILED/PAGINATION

13. Has the applicant exhausted all available remedies? Yes

14. Have the declaration as required by item 7 of Form-I been made? Yes

15. Have required number of envelopes (file size) bearing full address of the respondents been filed? Yes

16. (a) Whether the reliefs sought for, arise out of single cause of action? Yes

(b) Whether any interim relief is prayed for? Yes

17. In case an MA for condonation of delay is filed, is it supported by an affidavit of applicant? Yes

18. Whether this case can be heard by Single Bench? Yes

19. Any other point?

20. Result of the scrutiny with initial of the Scrutiny Clerk.

The application is in order and may be registered and listed before the Court for admission/orders on;

(a) MA for joining - U/R (5) (a) / 4 (5) (b)
(b) MA U/R 6 of CAI Procedure Rules, 1987
(c) PT u/s 25 under At Act
(d) MA for condonation of Delay;

OR

The application has not been found in order in respect of Item No(s) mentioned below:

(a) Item Nos.
(b) Application is not on prescribed size of paper.
(c) MA U/R 4(5)(a) / 4(5)(b) has not been filed.
(d) Application /counsel has not signed each page of the application/documents.
(e) MA U/R 6 has not been filed.

The application might be returned to the applicant for rectification of the defects within 7 days.

SCRUTINY CLERK

SECTION OFFICER

D.R. (J)

JOINT REGISTRAR

COURT NO. S/13 ... DATE ... 6/11/11

3/13

67-2318/2

FORM NO. 21550 2000

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

SB/DB

S.B.

REPORT ON THE SCRUTINY OF APPLICATION

Diary No. 2355

Presented By : S. M. Gay Date of Presentation 21.2.2000

Applicant (s) Bhawar Singh & others GROUP

Casual

Respondent (s) Union of India

Nature of grievance : Regular

No. of applicants : 26 No. of Respondents: 2

CLASSIFICATION

Subject : Casual (No.

) Department : Agriculture (23)

* if S.B.

1. Is the application in the proper form? (PROFORMA / COMPILATION)
(three complete sets in paper book form
in two compilations).

2. Whether name, description and address of
all the parties been furnished in the
cause title? Yes ✓ ✓

3. (a) Had the application been duly signed, and (SIGNED / VERIFIED)
verified ?

(b) Have the copies been duly signed? Yes

(c) Have sufficient number of copies of the
application been filed? Yes

4. Whether all the necessary parties are impleaded? Yes

5. Whether English translation of documents in a
language other than English or Hindi been filed? Yes

6. (a) Is the application in time ? (See Section 21) Yes

(b) Is MA for condonation of delay filed ? Yes

7. Has the Vakalatnama/Memo of appearance/00
authorisation been filed? Yes

8. Is the application maintainable ? U/s 2, U/s 14, U/s 18
(U/s 2,14,18 or U/R 6 etc). U/R 6, PT U/s, 25 file

9. Is the application accompanied by IPO/DD
for Rs. 50/- ? Yes No

10. Has the impugned orders original/duly
attested legible copy been filed ? LEGIBLE/ATTESTED

11. Have legible copies of the annexure duly LEGIBLE/ATTESTED
attested been filed ?

12. Has the index of documents been filed and pagination done properly? *✓* FILED/PAGINATION

13. Has the applicant exhausted all available remedies? *Yes*

14. Have the declaration as required by item 7 of Form-I been made? *✓*

15. Have required number of envelopes (file size) bearing full address of the respondents been filed? *Yes*

16. (a) Whether the reliefs sought for, arise out of single cause of action? *Yes*

(b) Whether any interim relief is prayed for? *Yes*

17. In case an MA for condonation of delay is filed, is it supported by an affidavit of applicant? *✓*

18. Whether this case can be heard by Single Bench? *Yes*

19. Any other point?

20. Result of the scrutiny with initial of the Scrutiny Clerk.

The application is in order and may be registered and listed before the Court for admission/orders on;

(a) MA for joining - U/R (5) (a) / 4 (5) (b)
(b) MA U/R 6 of CAI Procedure Rules, 1987
(c) PT U/s 25 under At. Act
(d) MA for condonation of Delay;

OR

The application has not been found in order in respect of Item No(s) mentioned below:

(a) Item Nos.
(b) Application is not on prescribed size of paper.
(c) MA U/R 4(5)(a) / 4(5)(b) has not been filed.
(d) Application /counsel has not signed each page of the application/documents.
(e) MA U/R 6 has not been filed.

The application might be returned to the applicant for rectification of the defects within 7 days.

SCRUTINY CLERK

SECTION OFFICER

D.R. (J)

JOINT REGISTRAR

COURT NO. S 13 .. DATE .. 6/11/2022

3/13

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

ORIGINAL APPLICATION NO. 2318 OF 2000

In the matter of:

MA 2737/2000 5)

Shri Bhanwar Lal and others

.. Applicants

-versus-

Union of India and another

.. Respondents

I N D E X

(COMPILED - I)

1. Original Application

1- 18

(COMPILED - II)

2. Annexure-I

Details of Applicants, including
the total days attended during the
years 1998-99 or 1999-2000

19- 21

3. Annexure-II

True copy of Judgment dated 2.8.1991

22- 33

4. Annexure-III

True copy of Statutory Standing
Order

34- 47

5. Annexure-IV

A list giving the Card No. of
juniors and freshers

48

6. Annexure-V

True copy of order dated 10.08.1989
of this Hon'ble Tribunal

49- 56

7. Annexure-VI

True copy of order dated 5.2.1990
of the Hon'ble Supreme Court

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8. Annexure-VII

True copy of Office Order dated
16.07.1990

58- 60

9. Annexure-VIII

True copy of order dated 19.06.1996

61- 62

Annexure-IX

True copy of order dated 5.11.1997

63- 65

प्रधान स्पायणीठ/CAT (PB)

बाब राविल किया

Filed Today

W- 1 NOV 2000 9355

प्रधान स्पायणीठ/CAT (PB)

परिचय स्टार/Dy. Registrar

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11. Annexure-X (Colly.)

True copies of judgment and order
dated 11.1.1999 and order of
regularisation of the applicants
therein dated 7.9.1999

66 - 71

12. M.A. NO. _____ of 2000

An application u/s 4(5) of the
CAT 1987

72 - 73

FILED ON: 2.11.2000
AT NEW DELHI

S.M. Garg
(SATYA MITRA GARG)
ADVOCATE FOR THE APPLICANTS
113-C, DDA LIG FLATS,
JHANDEWALAN, MOTIA KHAN,
NEW DELHI 110055.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

ORIGINAL APPLICATION NO. 318

OF 2000

In the matter of:

Bhanwar Lal and others

.. Applicants

-Versus-

Union of India and another

.. Respondents

AND

In the matter of:

1. Shri Bhanwar Lal
s/o Shri Sarwan Kumar
r/o 7033/2, Mata Ramewari,
Nehru Nagar, Karol Bagh,
New Delhi.

2. Shri Sunil Kumar
s/o Shri Jawahar Lal
r/o 2132/12B, Prem Nagar,
New Delhi.

3. Shri Ramesh
s/o Shri Balwant Singh
r/o G/15, IASRI,
Pusa Colony,
New Delhi.

4. Shri Sunder Lal
s/o Shri Vir Singh
r/o 21/288 Hari Nagar,
New Delhi.

5. Shri Dhan Singh
s/o Shri Samay Singh
r/o 26/365, D.M.S. Colony,
Hari Nagar,
New Delhi.

6. Shri Surender Prasad,
s/o Shri Nari Ram
r/o G-31, D.M.S. Colony,
Shadipur Depot,
New Delhi.

7. Shri Pardeep Kumar
s/o Shri Surendra Chander Sharma
r/o 29/402, D.M.S. Colony,
Hari Nagar,
New Delhi.

8. Shri Rakesh Kumar
s/o Shri Sita Ram
r/o 5/62, D.M.S. Colony,
Hari Nagar,
New Delhi.

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9. Shri Rajiv Ranjan
s/o Shri Kuldip Sharma,
r/o F-11, D.M.S. Colony,
Shadipur Depot,
New Delhi.

10. Shri Ram Shankar
s/o Shri Kuldip Sharma
r/o F-11, D.M.S. Colony,
Shadipur Depot,
New Delhi.

11. Shri Sanjay
s/o Shri Sumer Singh
r/o H-63, D.M.S. Colony,
Shadipur Depot,
New Delhi.

12. Shri Satender Singh
s/o Shri Vir Singh,
r/o 21/288, D.M.S. Colony,
Hari Nagar,
New Delhi.

13. Shri Jai Prakash
s/o Shri Bhagwan Das,
r/o H.No. 50, Village Nangli,,
Sakrawati, Najafgarh Road,
New Delhi.

14. Shri Pawan Kumar
s/o Shri Jagdish Kumar
A-3/60, Sultan Puri,
New Delhi.

15. Shri Shamsher Singh
s/o Shri Ram Singh
r/o G-32, D.M.S. Colony,
Shadipur Depot,
New Delhi.

16. Shri Amit Kumar
s/o Shri Har Prakash
r/o H-54, D.M.S. Colony,
Shadipur Depot,
New Delhi.

17. Shri Jai Prakash
s/o Shri Vishambar Das
r/o B-34, Vikas Nagar,
Uttam Nagar,
New Delhi.

18. Shri Virender Prasad
s/o Shri Vijay Bahadur
A-3/76, Sultan Puri,
New Delhi.

19. Shri Avdhesh Kumar
s/o Shri Ram Chander
r/o T-581/T.D. Baljeet Nagar,
West Patel Nagar,
New Delhi.

....

20. Shri Manish Kumar
s/o Shri Suraj Prakash
r/o 2/17, Old Rajinder Nagar,
New Delhi 110060.
21. Shri Shiv Prakash
s/o Shri A. Yadav
r/o H-60, D.M.S. Colony,
Shadipur Depot,
New Delhi.
22. Shri Vikram Singh
s/o Shri Shyam Lal
r/o G-30, D.M.S. Colony,
Shadipur Depot,
New Delhi.
23. Shri Khem Chander
s/o Shri Mal Ram
r/o JIIIS4, Wazirpur Colony,
New Delhi.
24. Shri Vijender
s/o Shri Shyam Lal
r/o Village Jiji P.O. Sampla,
Distt. Rohtak, Haryana.
25. Shri Rajesh Kumar
s/o Shri Dilip Kumar
r/o A-254, Karan Vihar Part II,
Nangloi, Delhi.
26. Shri Anil Kumar
s/o Shri Surender Singh
r/o T-607, Vijay Park,
Baljeet Nagar,
New Delhi.

.. Applicants

(all working as Daily Rated Mates in D.M.S.,
Patel Nagar, New Delhi).

(service of all notices to the applicants on the
the following address:

Satya Mitra Garg
Advocate
113-C, DDA LIG Flats
Motia Khan, New Delhi 110055)

-Versus-

1. Union of India through
the Secretary,
Ministry of Agriculture
(Department of Agriculture,
Animal Husbandry and Dairy),
Krishi Bhawan,
New Delhi.
2. The General Manager,
Delhi Milk Scheme,
Patel Nagar.
New Delhi.

.. Respondents

(Service of all notices on the respondents
on the above addresses)

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AN APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT, 1985

MOST RESPECTFULLY SHOWETH:

1. That this is an application seeking transfer of the Applicants to regular establishment of Delhi Milk Scheme in accordance with the certified standing orders and the directions issued by this Hon'ble Tribunal vide order dated 2.8.1991 in Original Application No. 948 of 1988 etc., Judgment and Order dated 10.08.1989 in Original Application No. 37 of 1988 and Judgment and Order dated 11.1.1999 passed in Original Application No. 2958 of 1997 from the date they have completed 240 days, including Sundays and other paid holidays, in a year as Badli Workers/Casual Labourers. It is pertinent to point out that the order dated 10.08.1989 in O.A. No. 37/88 was confirmed by the Hon'ble Supreme Court vide order dated 5.2.1990 in SLP (Civil) No. 1085 of 1990.

2. Jurisdiction

The Applicants declare that the subject matter of the Original Application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The Applicants declare that the Application is within the period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. Facts:

i) That the Applicants herein 26 in number, have been continuously working as daily rated mates from May 1998, January or February 1999 respectively. The details of

....

all the applicants, including the total days of working during the year 1998-99 or 1999-2000 are given in Annexure-I annexed herewith.

ii) That all the applicants have completed more than 240 days in the year 1998-99 or 1999-2000. It is submitted that for the purpose of computing the period of 240 days in a year, Sundays and other paid holidays have also to be included. In view of this fact the Applicants ought to have been regularised in the Grade 'D' Posts by giving them the benefit of the various judgments of this Hon'ble Tribunal dealing with the casual/daily rated/badli workers of Delhi Milk Scheme. One of the such judgments dated 2.8.1991 wherein all the other previous judgments are discussed is annexed as Annexure II.

iii) The workers of the Delhi Milk Scheme have been classified under the Certified Standing orders as;

- a) Casual
- b) Badli; and
- c) Apprentice

A "Casual" worker has been defined who is employed on work of casual, occasional nature or to fill a post in regular work provided that a casual worker after continuously working for three months in regular work establishment shall be transferred to regular establishment governed by the Fundamental and Supplementary Rules. "Badli" means the worker who is employed for the purpose of working in place of regular employees who are temporarily positioned.

A Badli worker who has actually worked for not less than 240 days in any period of 12 months shall be transferred to regular establishment governed by the Fundamental and Supplementary Rules. A true copy of Statutory Standing Order is annexed as Annexure-III.

iv) In the Judgment and Order dated 2.8.1991, this Hon'ble Tribunal passed the following order and directions :

" (i) We hold that the termination of the services of the Applicants is not legally tenable and the same is set aside and quashed;

(ii) The Applicants shall be deemed to have been transferred to the regular establishment after having worked for not less than 240 days in any period of 12 months. For the purpose of computing the period of 240 days in a year, Sundays and other holidays should also be included;

(iii) In the circumstances of the case we do not pass any order regarding payment of back wages to the Applicants. However, the intervening period should be treated as leave with or without pay as due or dies-non as the case may be;

(iv) Supernumerary post in the regular establishment may be created, if any."

Thus all those daily rated/casual badli workers, who have completed more than 240 days in Delhi Milk

Scheme are deemed to have been transferred to the regular establishment. However, in this case the Respondents have not taken any steps to transfer the Applicants to regular establishment and instead their services were discontinued w.e.f. and their juniors were retained and fresh persons were employed in their place. A list giving the Card No. of such juniors and freshers is annexed as Annexure-IV. Thus the Fundamental Rights of the Applicants under Article 14 and 16(1) are being violated by the Respondents. In the case of the State of Haryana Vs. Pyara Singh - 1992 (4) SCC 118 the Hon'ble Supreme Court held as under:-

"49. If for any reasons, an adhoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularisation provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the STATE.

50. The proper course would be that "STATE" prepares a scheme if one is not already in vogue for regularisation of said employees consistent with its reservation policy and if a scheme is already framed the same may be made consistent without observations herein so as to reduce avoidable litigation in this behalf".

....

In view of the above observations of the Hon'ble Supreme Court read with the judgment dated 2.8.1991 of this Hon'ble Tribunal, the Respondents ought to have regularised the services of the Applicants. However, they have failed to do so. This action of the respondents is not only contrary to the judgment dated 2.8.1991 in O.A. Nos. 948/88 etc. but it is also against the order dated 10.8.1989 of this Hon'ble Tribunal in O.A. No. 37/88, whereby this Hon'ble Tribunal has held that the Applicants therein shall be deemed to have been transferred to the regular establishment from the date they completed 240 days in one year. The said judgment in O.A. No. 37/88 was also challenged before the Hon'ble Supreme Court in S.L.P. (C) No. 1085 of 1990 and by order dated 2.5.1990 the said S.L.P. was dismissed and the order dated 10.8.1989 of this Hon'ble Tribunal was confirmed. A true copy of order dated 10.8.1989 of this Hon'ble Tribunal and the order dated 5.2.1990 of the Hon'ble Supreme Court are annexed as Annexure V and VI respectively.

v) It is pertinent to point out herein that following the judgment dated 10.08.1989 of this Hon'ble Tribunal in Original Application No. 37 of 1988 the Applicants therein were appointed to supernumerary posts of Mates in the Scale of Rs.750-940 (revised to Rs.850-1150) in the establishment of Delhi Milk Scheme from the date of their completion of 240 days. A true copy of Office Order dated 16.7.1990 is annexed as Annexure-VII.

vi) Subsequently, the said employees who are Applicants in O.A. No. 37/88 were transferred to the regular posts of Mates vide order dated 1.6.1996. A true copy of the said order dated 19.6.1996 is annexed as Annexure-VIII.

vii) Further, 12 of the Badli workers have again been appointed in the supernumerary posts of Mates from the date they completed 240 days, following some judgments of this Hon'ble Tribunal. A true copy of order dated 5.11.1997 is annexed as Annexure-IX.

viii) Similarly this Hon'ble Tribunal following the above referred earlier judgments of this Hon'ble Tribunal allowed O.A. No.2958/97 of similarly situated daily rated mates and subsequently they were also transferred to regular establishment of D.M.S. True copies of judgments and order dated 11.1.1999 and order of regularisation of the applicants therein dated 7.9.1999 are annexed as Annexure-X(Colly.).

ix) It is respectfully submitted that the only course open for the Respondents was to transfer the Applicants herein to the regular establishment of D.M.S. from the date they completed 240 days, as it was done in the case of number of other employees as stated above. The Respondents have, however, not done so and instead their services were discontinued and their juniors were retained and freshers were employed. They are, therefore, constrained to approach this Hon'ble Tribunal. It is respectfully submitted that it is the well settled law that once an order has been passed by a Court in respect of certain employees, the other similarly situated employees also should be given the said benefit by the Respondents and the said other similarly situated employees should not be vexed to approach the Court by filing the separate Petition.

ix) That after the above-referred judgments and some more subsequent judgments of this Hon'ble Tribunal, instead of transferring the daily rated/Badli workers to regular establishment on their completion of 240 days of employment in an year in D.M.S., the respondents have started adopting a very unfair, unjust and unreasonable practice of giving an artificial break to these workers. However, their juniors are retained and in their place some new persons are employed. This practice is meant only to defeat the provisions of standing orders. This new practice of respondents is, therefore, wholly illegal and unconstitutional.

5. GROUND RELIED UPON:

I. That all the Applicants have completed more than 240 days and they are, therefore, entitled to be transferred to regular establishment vide judgment and order dated 11.1.1999 of this Hon'ble Tribunal passed in O.A. No. 2958/97 and Judgment and order dated 2.8.1991 of this Hon'ble Tribunal in Original Application No. 948 of 1988 etc. and judgment and order dated 10.8.1989 passed by this Hon'ble Tribunal in O.A. No. 37/88 and confirmed by this Tribunal in O.A. No. 37/88 and confirmed by the Hon'ble Supreme Court vide order dated 5.2.1990 in SLP (C) No. 1085/90.

II. That even as per the Certified Standing Orders of Respondent No. 2, the Applicants are entitled for transfer to regular Establishment governed by Fundamental and Supplementary

....

Rules and they cannot any more be treated as daily rated or Badli workers or even temporary workers.

- III. That the action of the Respondents in denying regularisation of their services to the Applicants, and instead discontinuing their services, by retaining their juniors and employing fresh persons, is arbitrary, unreasonable and violative of Article 14 and 16(1) of the Constitution.
- IV. That the action of the Respondents in denying benefits to the Applicants at par with their counter-parts in regular establishment is also arbitrary and unreasonable and violative of Article 14 of the Constitution.
- V. That instead of transferring the daily rated/ Badli workers to regular establishment on their completion of 240 days of employment in a year in D.M.S., the respondents have started adopting a very unfair, unjust and unreasonable practice of giving an artificial break to these workers. This practice is meant only to defeat the provisions of standing orders. This new practice of respondents is, therefore, wholly illegal and unconstitutional.
- VI. That the Applicants demanded justice but they have been denied the same. They are, therefore, constrained to approach this Hon'ble Tribunal.

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6. DETAILS OF REMEDIES EXHAUSTED:

The applicants state that they have made a number of oral representations to the respondents to transfer them to the regular establishment and also to give them duty in place of their juniors and freshers, but no action has been taken by the respondents so far. Further no statutory remedy of representation etc. is available to the applicants and they are therefore constrained to approach this Hon'ble Tribunal.

7. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT

The Applicants further declare that they have not previously filed any application, writ petition or suit regarding the matter in respect of which this Application has been made, before any court or any other authority or any other Bench of this Tribunal, nor any such Application or suit is pending before any of them.

8. RELIEFS SOUGHT FOR:

- (a) call for the records of the case;
- (b) declare that the practice of respondents in giving artificial breaks to the daily rate/Badli workers is illegal and unconstitutional;
- (c) declare that the action of the respondents in not transferring the applicants to the regular establishment immediately on completion of 240 days (including Sundays and other paid holidays) by them and instead discontinuing their services and further retaining their juniors and employing fresh persons in their place, is not only arbitrary, unjust and

violative of Articles 14 and 16(1) of the Constitution but the same also amounts to retrenchment under Section 2 (DD) of the Industrial Disputes Act, 1947.

(d) pass an order directing the Respondents to transfer the Applicants to the regular establishment of Delhi Milk Scheme by giving them the benefit of the Certified Standing Orders and the directions issued by this Hon'ble Tribunal by judgment and order dated 11.1.1999 in O.A. No. 2958/97 and judgment and order dated 2.8.1991 in Original Application No. 948 of 1988 etc. and judgment and order dated 10.8.1989 in O.A. No. 37/88 from the date they have completed 240 days (including Sundays and other paid holidays);

(e) pass an order directing the Respondents to accord to the Applicants all benefits/ facilities at par with their counter-parts in the regular establishments;

(f) pass such further or other orders which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case.

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9. INTERIM RELIEFS SOUGHT FOR:

Pending final disposal of the Original Application the Applicants most respectfully pray that this Hon'ble Tribunal may be pleased to direct the Respondents to give duty to the Applicants in place of their juniors and freshers.

10. Does not apply.

11. Particulars of the Postal Orders:

i)	Nos.	371614
ii)	Date of Issue	2/11/2000
iii)	Name of issuing Post Office	S.C.
iv)	Payable at	N. Delhi

....

12. List of Enclosures:- Annexure 1. to as per the list details given in the index.

1. BHANWAR LAL	Bhan.
2. रमेश	रमेश
3. शमशेर शेष	शमशेर शेष
4. अमीर कुमार	अमीर कुमार
5. मनीष कुमार	मनीष कुमार
6. पवन कुमार	पवन कुमार
7. सुरेन्द्र प्रसाद	Surender
8. राकेश कुमार	Raj
9. अमित कुमार	Amrit
10. सुनदर लाल	Sundar Lal
11. सतेन्द्र शेष	Satender
12. पंचमी	Pancham
13. रामेश रमेश	Ram Singh
14. शुभेल कुमार	Subhalekha
15. दीपक लाल	Deepak Lal
16. राम शंकर शंकर	Ram Shankar
17. जय प्रसाद	Jay Prasad
18. कृष्ण कुमार	Krishna Kumar
19. संजय कुमार	Sanjay Kumar
20. लक्ष्मी	Lakshmi
21. विजय कुमार	Vijay Kumar
22. जी बाबू	Jee Babu
23. दिल्ली चंद्र	Dilley Chander
24. रमेश	Ram

25. 21/02/15 05/03/15

Rejesh. Kumar

26. 31/02/15 05/03/15

Anil. Kumar

Through

A. M. Garg
(Satya Mitra Garg)
Advocate for The Applicants

Filed On:
at New Delhi

Verification:-

We the undersigned applicants working in Delhi Milk Scheme, Patel Nagar, New Delhi as Daily Rated / Badli Mates do hereby verify that the contents of paras 1, 4, 6 and 7 are facts true to our knowledge and those of paras 2 and 3 are facts true on the legal advise and those of the rest of the paras are submissions and prayers to this Hon'ble Tribunal and we have not suppressed any material facts therefrom.

Applicants

1. BHANWAR LAZ.

Bheev

2. रमेश

रमेश

3. शमशेर मिश्र

शमशेर मिश्र

4. आशीर्वद कुमार

आशीर्वद कुमार

5. मनोज कुमार

मनोज कुमार

6.

पवन कुमार

पवन कुमार

7. सुरेन्द्र प्रभाद

Sur 18

8. रामेश कुमार

Ram

9. देवेश कुमार

Devash

10. सुनुर पाल

Sunur Pal

11. अर्णव लिले

Arnav Lile

12. देवा राम

Deva Ram

13. राजीव राम कुमार

Rajeev Kumar

14. सुनील कुमार

Sunil Kumar

15. विनय कुमार

Vinay Kumar

16. राम शंकर कुमार

Ram Shankar

17. जगद्दास

Jagdass

18. उवेश कुमार

Uvesh Kumar

19. संजय कुमार

Sanjay Kumar

20. रमेश कुमार

Ramesh Kumar

21. विनेश कुमार

Vineesh Kumar

22. जगद्दास

Jagdass

23. देवन पाल

Devan Pal

24. रामेश

Ramesh

25. रवीश कुमार

Raviesh Kumar

26. Anil kumar

Anil Kumar

A. M. Garg
2.11.2000

Annexure-I

STATEMENT SHOWING DETAILS OF ALL THE APPLICANTS, INCLUDING
THE TOTAL NUMBER OF DAYS OF WORKING DURING THE YEAR 1998-99 OR 1999-2000

Sl. No.	Name	Father's Name	Card No.	Date of Joining	No. of working days in one year	Total No. of working days in a year including Sundays and other paid holidays numbering 76	Address
1	2	3	4	5	6	7	8
1.	Shri Bhanwar Lal	Shri Sarwan Kumar	1116	11.01.1999	228	304	7033/2, Mata Ramewari, Nehru Nagar, Karol Bagh, New Delhi.
2.	Shri Sunil Kumar	Shri Jawahar Lal	1017	12.05.1998	220	296	2132/12B, Prem Nagar, New Delhi.
3.	Shri Ramesh	Shri Balwant Singh	998	16.05.1998	225	301	G/15, IASRI, Pusa Colony, New Delhi.
4.	Shri Sunder Lal	Shri Vir Singh	946	12.05.1998	225	301	21/228, Hari Nagar, New Delhi.
5.	Shri Dhan Singh	Shri Samay Singh	1061	5.1.1999	231	306	26/365 D.M.S. Colony, Hari Nagar, New Delhi.
6.	Shri Surender Prasad	Shri Hanari Ram	1064	05.01.1999	228	304	G-31, D.M.S. Colony, Shadipur Depot, New Delhi
7.	Pardeep Kumar	Shri Suresh Chander Sharma	1096	07.01.1999	223	299	29/402, D.M.S. Colony, Hari Nagar, New Delhi.
8.	Shri Rakesh Kumar	Shri Sita Ram	1090	06.01.1999	228	304	5/62, D.M.S. Colony, Hari Nagar, New Delhi.

1	2	3	4	5	6	7	8
9.	Shri Rajiv Ranjan	Shri Kuldip Sharma	1158	22.02.1999	225	301	F-11, D.M.S. Colony Shadipur Depot, New Delhi
10.	Shri Ram Shankar	Shri Kuldip Sharma	1154	22.02.1999	225	301	F-11, D.M.S. Colony Shadipur Depot, New Delhi
11.	Shri Sanjay	Shri Sumer Singh	1165	22.02.1999	220	296	H-63, D.M.S. Colony, Shadipur Depot, New Delhi
12.	Shri Satender Singh	Shri Vir Singh	1161	21.02.1999	228	304	21/288, D.M.S. Colony, Hari Nagar, New Delhi
13.	Shri Jai Prakash	Shri Bhagwan Das	1172	27.02.1999	225	301	H.No.50, Village Nangli, Sakrawati, Najafgarh Road, New Delhi.
14.	Shri Pawan Kumar	Shri Jagdish Kumar	1144	21.02.1999	225	301	A-3/60, Sultan Puri, New Delhi.
15.	Shri Shamsher Singh	Shri Ram Singh	1140	20.02.1999	220	296	G-32, D.M.S. Colony, Shadipur Depot, New Delhi
16.	Shri Amit Kumar	Shri Har Prakash	1168	22.02.1999	220	296	H-54, D.M.S. Colony, Shadipur Depot, New Delhi
17.	Shri Jai Prakash	Shri Vishambar Das	1131	22.02.1999	225	301	B-34, Vikas Nagar, Uttam Nagar, New Delhi.
18.	Shri Virender Prasad	Shri Vijay Bahadur	1143	22.02.1999	227	303	A-3/76, Sultan Puri, New Delhi.
19.	Shri Avdesh Kumar	Shri Ram Chander	1137	20.02.1999	224	300	T-581/T.D. Baljeet Nagar West Patel Nagar, New Delhi.

1	2	3	4	5	6	7	8
20.	Shri Manish Kumar	Shri Suraj Prakash	987	16.05.1998	215	291	2/17, Old Rajinder Nagar New Delhi 110060.
21.	Shri Shiv Prakash	Shri A. Yadav	1003	12.05.1998	220	296	H-60, D.M.S. Colony, Shadipur Depot, New Delhi.
22.	Shri Vikram Singh	Shri Shyam Lal	1017	20.05.1998	213	289	G-30, D.M.S. Colony, Shadipur Depot, New Delhi.
23.	Shri Khem Chander	Shri Mal Ram	1109	07.01.1999	224	300	JIII54, Wazirpur Colony, New Delhi.
24.	Shri Vijender	Shri Shyam Lal	1036	25.05.1999	215	291	Village Jiji P.O. Sampla, Distt. Rahtak, Haryana.
25.	Shri Rajesh Kumar	Shri Dilip Kumar	1079	06.01.1999	225	301	A-254, Karan Vihar Part II Nangloi, Delhi.
26.	Shri Anil Kumar	s/o Shri Surender Singh 1160		22.02.1999	232	308	T-607, Vijay Park, Baljeet Nagar, New Delhi

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This Annexure is the true
copy of its original

B.M.Garg

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

22 Annexure-II

Regn. Nos. (1) OA 948/88 Date of decision 02.8.1991
(2) OA 1091/88
(3) OA 1031/88 &
(4) OA 1302/88

(1) OA 948/88

Shri Surya Narayan ...Applicant
Vs.

Union of India & Another ...Respondents

(2) OA 1091/88

Shri Jai Veer ...Applicant
Vs.

U.O.I. through the
Secretary, Min. of
Agriculture & Another ...Respondents

(3) OA 1031/88

Shri Hari Das Shinde & Others ...Applicant
Vs.

Union of India & Another ...Respondents

(4) OA 1302/88

Shri Surender Singh ...Applicant
Vs.

Union of India & Another ...Respondents

For the Applicants in (1) to (4) ...Shri K.L. Bhatia
Counsel

For the Respondents in (1) to (4) ...Shri M.L. Verma,
Counsel

CORAM:

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THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN (J)
THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the Reporters or not? Yes.

JUDGMENT

(of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice Chairman (J))

There are 64 applicants in all in these applications. They have worked for different periods in the Delhi Milk Scheme (hereinafter referred to as 'DMS') as Mates/Badli, Workers/Casual Labourers. As the issues raised in the present applications are identical, it is proposed to deal with them in a common judgment.

2. The applicants have prayed that as they have worked for not less than 3 months in regular work of the respondents that they be directed to transfer to the regular establishment of the DMS, that they be directed to implement the judgment of this Tribunal dated 21.10.1987 in OA 1059/87 (DMS Employees Union Vs. Union of India & Others) and that the respondents be directed to treat the days on which they were not allowed to join their work without any notice and valid orders as on duty for all purposes.

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3. It may be recalled that the OMS Employees Union had filed in this Tribunal OA 1059/89, which was disposed of by judgment dated 21.10.1987. In the said application, they had prayed that the daily paid Mates/Badli workers be brought over to regular establishment and that they be paid salary, allowances etc. on par with Group 'D' employees. The said application was disposed of by judgment dated 21.10.87, the operative part of which reads as follows:-

(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 months of the said period. The gap if any in their employment subsequent to the date of such regularisation should be treated as leave

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with or without pay, as a 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."

4. There was another round of litigation before
the Tribunal on the same issue in OA 37/1988 (Shri
Pramod Kumar & Others Vs. Union of India & Others).
The applicants who had worked as daily paid Mates
for periods ranging from March 1987 to October, 1987
had alleged that they had not been allowed to work
by verbal orders issued by the respondents. They
had prayed that they should be allowed to work and
be regularised in the DMS and that they should be
paid the same salary and allowances as in the case
of regular employees. The said application was
disposed of by judgment dated 10.8.1989 to which one
of us (Shri P.K. Kartha) was a party. The operative
part of the judgments reads as under:-

"In the conspectus of facts and circumstances
of the case, we are of the opinion that the
applicants shall be deemed to have been
transferred to the regular establishment from
1st November, 1987. The striking off/their

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names from the rolls of workmen of the respondents amounted to retrenchment under Section 2(00) of the Industrial Disputes Act and was in violation of Section 25 F thereof. In the circumstances of the case, we do not pass any order regarding payment of back wages. The intervening period 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. The respondents shall comply with the above directions within a period of three months from the date of receipt of this order. There will be no order as to costs."

5. The case of the applicants is that they are similarly situated like the applicants in OA 1059/87 and OA 37/88, mentioned above.

6. After the filing of these applications, some other employees similarly situated moved Misc. Petitions with a prayer for impleading them as applicants as mentioned below:-

- (1) In OA 1091/88 MP No. 1646/90 was filed seeking impleadment of Mohan Jha as applicants.
- (2) In OA 1031/88 MP Nos. 2586/90 and 2587/90 were filed for impleadment of Shri Balwan Singh and Shri Rajeshwar Shah as applicants.

(3) In OA 1302/88 MP No. 2582/90 was filed for impleadment of Shri Virchi Chand as applicants. The aforesaid MPs are allowed as the petitioners there are also similarly situated.

7. We have carefully gone through the records of that cases, and have considered the matter. The respondents have raised a preliminary objection in their counter-affidavit to the effect that these applications are not maintainable in view of the judgment of this Tribunal in A. Padmavally & Others Vs. C.P.W.D. and Tele Communication reported in 1990(3) SLJ (CAT) 544, decided by a five Member Bench on 30.10.1990.

8. In Padmavally's case, one of the questions considered by the Larger Bench was whether a Central Government employee who is a workmen has two remedies open to him, namely, to approach the Central Administrative Tribunal or the Industrial Tribunal and whether it is open to him to choose his remedy. The Tribunal, inter alia, held that an applicant seeking a relief under the provisions of the Industrial Disputes Act, 1947, must ordinarily exhaust the remedies available under that Act.

9. In Padmavally's case, the Tribunal, however, observed that alternative remedy cannot be pleaded as a bar to the exercise of jurisdiction under Article 226 in two situations, namely: (i) where

there is violation of Article 14 of the Constitution and (ii) where there is a statutory violation. In such case, it is open to the employee to plead violation of Article 14 of the Constitution or allege statutory violation and seek redress without approaching the Industrial Tribunal for adjudication of rights vested under the provisions of the Industrial Disputes Act, 1947. In this context, reference may be made to paras 37 to 39 of the judgment.

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10. It follows therefore, that the preliminary objection raised by the respondents would be valid and tenable only in cases and situations where there is no plea of violation of Article 14 of the Constitution or statutory violation by the authorities concerned.

11. In the applications before us, there is allegation of statutory violation as well as violation of Article 14 of the Constitution, as will be discussed hereinafter. In view of this, we see no force or merit in the preliminary objection raised by the respondents.

12. The applicants before us were recruited after getting their names sponsored by the Employment Exchange. Their service is governed by the terms and conditions of employment and hours of work etc.

specified in the Certified Standing Orders for the employees of the DMS under the Industrial Employment (Standing Orders) Act, 1946, by the certifying officer and Deputy Chief Labour Commissioner (Central). The applicants have also invoked the provisions of Article 14 of the Constitution to the extent that they are seeking the benefit of the judgment of the Tribunal dated 21.10.1987 in OA 1059/87 and the judgment dated 10.8.1989 in OA 37/1988. Therefore, in our opinion, it will be open to them to seek relief from the Tribunal without first knocking at the doors of the Industrial Tribunal.

12. The workers of the DMS have been classified under the Certified Standing Orders as (a) Casual (b) Badli and (c) Apprentice. A casual worker has been defined to mean a worker who is employed on work of a casual or occasional nature or to fill posts in regular work, provided that a casual worker after continuously working for 3 months in regular work shall be transferred to regular establishment governed by the Fundamental and Supplementary Rules. 'Badli' means a worker who is employed for the purpose of working in place of regular employees who are temporarily absent. A Badli worker who has actually worked for not less than 240 days in any period of 12 months shall be transferred to regular establishment governed by the Fundamental and Supplementary Rules. These are the salient

provisions of the Certified Standing Orders of the
DMS relevant in the present context. 30

13. In the first case of DMS Employees Union (OA 1059/87) decided on 21.10.1987 it was held that those 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. In the second case of Shri Pramod Kumar and Others (OA 37/1988) decided on 10.8.1989, it was held that the applicants therein shall be deemed to have been transferred to the regular establishment from 1st November, 1987 and that the striking off of their names from the rolls or workman of the respondents amounted to retrenchment under Section 2(00) of the Industrial Disputes Act, 1947 and was in violation of Section 25 F thereof. The Tribunal did not pass any order regarding payment of back wages. The intervening period was directed to be treated as leave with or without pay as due or dies non as the case may be. It was further directed that supernumerary post in the regular establishment may be created, if necessary.

14. The applicants before us have contended that they have worked for over 240 days from the respective dates of their appointment as Daily Paid

Mates. They have computed this figure after taking into account the sundays and holidays. On the other and, the respondents have contended that the applicants have not worked for a period of 240 days in any period of 12 months. Their computation does not take into account sundays and holidays. This aspect of the matter was considered in Pramod Kumar's case in which it was held that the sundays and holidays should also be included for the purpose of computing the period of 240 days in a year. In this context, reliance was placed on the judgment of the Supreme Court in H.D. Singh Vs. Reserve Bank of India, 1985 SCC (L&S) 975. We reiterate the same view.

15. The respondents have not produced before us any record to show how the applicants could be treated as Badli Workers and in whose place they occupied the post on which they were appointed.

16. In the conspectus of the facts and circumstances of the case and following the judgments of this Tribunal in DMS Employees Union Vs. Union of India & Others (OA 1059/87) decided on 21.10.1987 and Pramod Kumar & Others Vs. Union of India & Others (OA 37/88) decided on 10.8.1989, these applications are disposed of with the following orders and directions:-

- (i) We hold that the termination of the services of the applicants is not legally

tenable and the same is set aside and quashed.

(ii) The applicants shall be deemed to have been transferred to the regular establishment after having worked for not less than 240 days in any period of 12 months. For the purpose of computing the period of 240 days in a year, sundays and other paid holidays should also be included.

(iii) In the circumstances of the case, we do not pass any order regarding payment of back wages to the applicants. However, the intervening period should be treated as leave with or without pay as due or dies non, as the case may be.

(iv) Supernumerary posts in the regular establishment may be created, if necessary.

(v) The respondents shall comply with the above directions within a period of 3 months from the date of receipt of this order.

There will be no order as to costs.

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Let a copy of this order be placed in case
files bearing No. OA 948/88, OA 1091/88, OA 1031/88
and OA 1302/88.

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Sd/-

(B.N. DHOUNDIYAL)
MEMBER (A)

Sd/-

(P.K. KARTHA)
VICE CHAIRMAN (J)

This Annexure is the true
copy of its original

A.M. Garg

CERTIFIED STANDING ORDERS FOR THE EMPLOYEES OF THE
DELHI MILK SCHEME

1. Scope of Orders

These Orders shall come into force on 15.7.1962/ 6.2.1963 and shall apply to all workmen of the Delhi Milk Scheme employed in their factory at West Patel Nagar except those in the regular establishment of the Scheme to whom the Fundamental & Supplementary Rules and the Civil Services (Classification, Control & Appeal) Rules are applicable for the time being.

2. Amendments or Modifications

These Orders may be amended or modified from time to time and shall take effect in accordance with the provisions of the Industrial Employment (Standing Orders) Act, 1946.

3. Publication

Notices, orders or instructions issued under these Standing Orders shall be posted in English and Hindi on the notice boards provided opposite the Time Keeper's office in the premises of the Central Dairy.

4. (i) Classification:- The workers shall be classified as:-

- (a) Casual
- (b) Badli, and
- (c) Apprentice

(ii) A 'casual' worker means a worker who is employed on work of a casual or occasional nature or to fill posts in regular work, provided that a casual worker after continuously working for three months in regular work shall be transferred to regular establishment governed by the Fundamental and Supplementary Rules.

(iii) 'Badli' means a worker who is employed for the purpose of working in place of regular employees who are temporarily absent:

Provided that a badli worker who has actually worked for not less than 240 days in any period of 12 months shall be transferred to regular establishment governed by the Fundamental and Supplementary Rules.

(iv) 'Apprentice' means a person engaged for training who may be paid a stipend during the period of training provided that the period of unpaid apprenticeship, if any, shall not exceed six months.

5. Identity Cards

(i) Every worker shall be provided with an identity card or token bearing such particulars as may be considered necessary by the Management.

(ii) Every worker shall know his identity card or token at the gate while entering or leaving the establishment or on demand at any time when he is in the establishment.

(iii) The identity card or token will be valid only for the hours that the worker concerned is required by the management to remain within the premises of the establishment in connection with his work. For the purpose of entry in the establishment outside such hours, special permission will have to be obtained from the Chief Administrative Officer.

(iv) The identity card or token shall not be transferable and shall be valid only in respect of the particular worker in whose favour it is issued.

....

(v) The identity card issued to any worker will remain the property of the Establishment and every worker must, on termination of the service, or on suspension from service, or on proceeding on leave preparatory to retirement, surrender his identity card to the Officer-in-charge of his Department who will duly forward the same to the Administrative Officer, Delhi Milk Scheme.

If any employee who surrenders his identity card as a result of suspension from service by the orders of Management, is required to attend the establishment under instructions from the Management, a temporary permit will be issued in his favour.

(vi) An employee who loses his identity card or token shall report the loss immediately in writing to the Administrative Officer to avoid misuse of the same by unauthorised persons.

The initial issue of the identity card/token shall be free of charge. In case of loss of an identity card or token as a result of negligence on the part of the employee, he will be liable to pay a charge of Rs. 50np. for the issue of a new card or token.

Hours of work and over-time

6. (a) Hours of work and overtime shall be regulated as per provisions of the Factories Act for the time being in force.

(b) Notices showing the periods and hours of work for every class and group of workers in each Department and for each shift shall be displayed on the notice board maintained for the purpose, as stated under clause 3.

(c) Notices specifying (i) weekly holidays under Section 52 of the Factories Act, 1948, (ii) the dates on which the compensatory holidays, if any, under Section 53 of the Factories Act, 1948 will be allowed, and (iii) the date on which wages are to be paid shall be displayed on the notice board maintained for the purpose, as stated under clause 3.

Provided that the employees who are absent on the regular pay day shall be paid their wages within three days of their return to duty after the regular pay day.

7. Attendance and late-coming

All workers shall be at work in the factory at the time fixed and notified. Workers attending late shall be liable to be shut out and treated as absent,

(a) provided that no worker who attends within ten minutes of the notified time shall be shut out.

(b) any worker attending late or not found on duty or absent from his proper place of work without permission or reasonable cause will be liable to be marked absent for half day or full day as the case may be; and

(c) grant of short absence from work shall depend on the exigencies of work and shall be at the discretion of the supervising authority.

8. Search

(a) on entering or leaving the premises at any time during the hours of work, when special circumstances so warrant in the opinion of the management or any other person authorised in this behalf, any worker is liable to be detained and searched. In the case of female workers, such detention or search shall be carried out by a female

searcher.

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(b) Every search shall be conducted in the presence of not less than two persons (workers) and the female worker shall not be searched in the presence of any male worker except with her consent.

9. Shift working and closure

(a) The provisions of the following sub-clauses shall not in any way alter the application of the provisions of the Industrial Disputes Act and the Rules made there under in relation to cases of retrenchment and lay-off of workmen.

(b) Shift working shall be regulated in accordance with the provisions of the Factories Act for the time being in force. More than one shift may be worked in a section or department at the discretion of the Chairman.

(c) If more than one shift is worked, the worker shall be liable to be transferred from one shift to another.

(d) Whenever an additional shift is started, or shifts are altered or discontinued, a seven days' notice shall be given to the workers.

(e) The Chairman may close down any department or section of a department wholly or partially after giving one month's notice to the workers, the junior most person being discharged first. Before reopening such Department, section or part of the section, as the case may be, a seven days' notice thereof shall be given.

....

(f) Workers shall be liable to be transferred from one department to another or to different sections within the same department without affecting their terms of service.

(g) Notice of (i) starting, re-starting, alteration and discontinuance of shift working, (ii) closure and re-opening of any section/department or part thereof, shall be displayed at the notice Board mentioned under clause 3, and a copy each of such notices shall be sent forthwith to every registered union of the workmen.

10. Leave

(a) Subject to the provisions of clause (b) below, leave with wages and allowances shall be granted to all workers in accordance with the Factories Act, 1948 for the time being in force and instructions of the Government of India issued from time to time on the subject.

(b) Grant of leave to a worker shall depend on the exigencies of the establishment and shall be at the discretion of the Chairman.

(c) A worker who desires to obtain leave of absence shall apply in writing to the Chairman or any Officer appointed for the purpose by the Chairman. Such application for leave shall be made at least seven days before the day from which leave is to commence, except in urgent cases or unforeseen circumstances when it may not be possible to do so. The Chairman or any Officer empowered by him in this behalf, shall issue orders on such application within three days of the presentation of the application and in cases of urgent nature

....

immediately. If the leave asked for has been granted, a leave pass showing the date from which the leave of absence commences and the date on which he will have to resume duty shall be issued to the worker. Where his leave has been refused or postponed, the fact of such refusal or postponement and the reasons therefore shall be recorded in writing in a register maintained for the purpose and if the worker so desires, a copy of such entry in the register shall be supplied to him.

(d) If a worker, after proceeding on leave, desires, an extension thereof, he should make an application for the purpose to the Chairman in writing sufficiently in advance. The Chairman shall send a written reply either granting or refusing the extension of leave to the workman if his address is available and if such reply is likely to reach him before the expiry of the leave originally granted to him.

(e) A worker remaining absent beyond the period of leave originally granted or subsequently extended, shall be liable to lose his lien on his appointment unless he returns within 8 days of the expiry of the sanctioned leave and explains to the satisfaction of on the expiry of the leave. In case the workman loses his lien on his appointment, he shall be entitled to be kept on the badli list.

11. Temporary Stopages

(a) In the event of fire, break-down of the machinery non-supply of milk, stoppage of water and/or power supply, an epidemic, civil commodation or other cause beyond the control of the Chairman, the Chairman may at any time without notice or compensation in lieu

of notice, stop any work wholly or partially in a Department or in the whole or part of the section of a Department for a reasonable period.

(b) If such stoppage takes place before the completion of four hours duty, the worker shall be paid for half the day, and if the stoppage takes place after the completion of four hours duty, the worker shall be paid full day's wage.

12. Lay-Off

(a) Workers may be laid off due to shortage of work, temporary curtailment of production or similar reasons, according to seniority after giving seven days' notice thereof by putting up a notice on the Notice Board to that effect. A worker laid off under this clause can leave his employment on intimation of his intention to do so.

(b) Notwithstanding anything contained in these Standing Orders, the rights and liabilities of employers and workers in so far as they relate to lay-off, shall be determined in accordance with Chapter V-A of the Industrial Disputes Act, 1947, provided that nothing contained in the said chapter shall have effect to derogate from any right which a workman has under the Minimum Wages Act, 1948 or any notification or order issued there under or any award for the time being in operation or any contract with the employer.

13. Closure due to strike

The Chairman may in the event of a strike affecting either wholly or partially any Section, Department or a Milk Collection and Chilling Centre, close down

wholly or partially such a Department, Section as well as any other Department or Sections affected by such closing down. The fact of such closure shall be modified by a notice displayed on the notice board as soon as practicable. The workmen concerned shall also be notified by a general notice prior to resumption of work as to the probable date of resumption of work.

14. Misconduct

The following acts and omissions on the part of a worker shall amount to misconduct:-

- (a) Wilful insubordination or disobedience whether or not in combination with another, of any lawful and reasonable order of a superior.
- (b) Striking work or inciting others to strike work in contravention of the provisions of any law, or rule having the force of law.
- (c) Wilful slowing down in performance of work or abetment or instigation thereof.
- (d) Theft, fraud or dishonesty in connection with the employer's business or property or the theft of property of another worker within the premises of the establishment.
- (e) Taking or giving bribes or any illegal gratification.
- (f) Habitual absence without leave, or absence without leave for more than 10 consecutive days or overstaying the sanctioned leave without sufficient grounds or proper or satisfactory explanation.

(g) Late attendance on not less than four occasions within a month.

(h) Reporting for work improperly or untidily dressed.

(i) Habitual breach of any Standing Orders or any law applicable to the Establishment or any rules made therein.

(j) Collection without the permission of the Chairman of any money within the premises of the Establishment, except as sanctioned by any law for the time being in force.

(k) Engaging in trade within the premises of the Establishment.

(l) Drunkenness, riotous, disorderly or indecent behaviour on the premises of the Establishment.

(m) Commission of any act subversive of discipline or good behaviour on the premises of the Establishment.

(n) Habitual neglect of work, or gross or habitual negligence.

(o) Habitual breach of any rules or instructions for the maintenance and running of any Department, or the maintenance of the cleanliness of any portion of the establishment.

(p) Habitual commission of any act or omission for which a fine may be imposed under the Payment of Wages Act, 1936.

....

(q) Convassing for union membership or the collection of union dues within the premises of the establishment, except in accordance with any law or with the permission of the Chairman.

(r) Wilful damage to work in process or to any property of the establishment.

(s) Holding meetings, inside the premises of the establishment without the previous permission of the Chairman or except in accordance with the provisions of any law for the time being in force.

(t) Disclosing to any unauthorised person information in regard to the process of the establishment which may come into the possession of the workman in the course of his work.

(u) Smoking or spitting on the premises of the establishment where it is prohibited by the employer.

(v) Failure to observe safety instructions notified by the employer or interference with any safety device or equipment installed within the establishment.

(w) Unauthorised possession of any lethal weapon in the establishment.

(x) Distributing, or exhibiting within the premises of the establishment, hand-bills, pamphlets, posters and such other things or causing to be displayed by means of songs or writing or other visible representation on any matter without previous sanction of the Chairman.

....

(y) Refusal to accept a charge-sheet, order or other communication served in accordance with these Standing Orders.

Explanation: No set of misconduct which is committed on less than three occasions within a space of six months shall be treated as habitual.

15. Disciplinary Action

(i) A worker guilty of misconduct may be:

(a) Warned or censured, or

(b) fined subject to and in accordance with the provisions of the Payment of Wages Act, 1936, or

(c) suspended by the Chairman for a period not exceeding 4 days, or services terminated without notice.

(ii) For order under sub-clause (b) or sub-clause (c) of clause (i) shall be made unless the worker concerned has been informed of the alleged misconduct or given an opportunity to explain the circumstances alleged against him.

(iii) In awarding punishment under this Order, the Chairman shall take into account the gravity of the misconduct, the previous record, if any, of the worker and any other or aggravating circumstances that may exist.

16. Grievances

(a) Any worker desirous of the redress of a grievance arising out of his employment or relating to unfair treatment or wrongful exaction on the part of a superior shall submit a complaint to the Chairman or any other Officer appointed by the Chairman in this behalf.

(b) The Chairman or any such officer shall personally investigate the complaints at such time and places as he may fix. The worker shall have a right to be present at such investigation. The decision of the Investigation Officer and the action, if any, taken thereon by the Chairman shall be intimated to the complainant. Provided that complaints relating to assault or abuse by any person holding a supervisory position or refusal of an application for urgent leave shall be inquired into immediately.

(c) The decision of the Inquiry Officer shall be subject to an appeal to the Chairman.

17. Evidence of Age

In the absence of documentary evidence regarding the age of a worker, an affidavit before a First Class Magistrate stating his age would be accepted.

18. Compensation for Injury

A worker injured by an accident arising out of and in the course of employment shall be entitled to compensation as if he were covered by the Workmen's Compensation Act.

19. Maternity Benefit

A female worker shall be entitled to maternity benefit as provided under the Bombay Maternity Benefit Act, 1909 as extended to Delhi Province.

20. Service Certificate

Every worker other than a casual worker who leaves service or retires shall without unavoidable delay be given a service certificate if he asks for one.

21. Notices

Notices to be exhibited or given under these

Standing Orders shall be in Hindi and in English. In case any communication in writing is given to a worker under these Standing Orders, who does not understand either of these languages, he shall be explained the contents of the same before handing over to him such communications.

22. Interpretation of Standing Orders

Interpretation of any Standing Order by Government in the event of a doubt or dispute will be final.

23. Liability of Chairman

The Chairman shall be reasonable for the proper and faithful observance of the Standing Orders.

24. Exhibition of Standing Orders

A copy of these Orders and any amendments or modifications therein shall be posted in English and in Hindi at the Chairman's office and on the Notice Boards at the Time Keeper's office in the Central Dairy and shall be kept in a legible condition.

No. I.F.1(9)/49/60-LS.

The above Standing Orders are certified under the Industrial Employment (Standing Orders) Act, 1946, this 15th day of June, 1962.

sd/-

(C. VENKATACHALAM)
CERTIFYING OFFICER AND
DEPUTY CHIEF LABOUR COMMISSIONER
(CENTRAL)
NEW DELHI

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Annexure-IV

THE CARD NUMBERS OF JUNIORS AND FRESHERS
RETAINED BY THE RESPONDENTS

CARD NO. 979, 983, 984, 988, 993, 994, 996, 998,
999, 1000, 1001, 1002, 1003, 1005, 1007, 1020,
1021, 1024, 1026, 1032, 1033, 1050, 1068, 1069,
1070, 1071, 1072, 1073, 1074, 1075, 1078, 1079,
1080, 1082, 1089

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Annexure-V

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

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Regd. No. OA-37/88

Dated 10.8.1989.

Shri. Pramod Kumar & Ors....

... Applicants

Versus

Union of India & Ors.

... Respondents

For the Applicants

... Shri. K.L. Bhatia
(Advocate)

For the Respondents

... Shri. M.L. Verma
(Advocate)

CORAM: Hon'ble Shri. P. K. Kartha, Vice Chairman (Judl.)

Hon'ble Shri. M.M. Marar, Administrative Member,

.....

1. Whether Reporters of local papers may be allowed to see the Judgement? 'YES'
2. To be referred to the reporter or not? 'YES'

(Judgement of the Bench delivered by Hon'ble
Shri. P. K. Kartha, Vice-Chairman)

1. The grievance of the applicants, who have worked in the Delhi Milk Scheme as Daily Paid Mates for periods ranging from March, 1987 to October, 1987 in this application filed under section 19 of the Administrative Tribunals Act, 1985 is that they have not been allowed to work by verbal orders issued by the respondents. They have prayed that they should be allowed to work and be regularised in the Delhi Milk Scheme (DMS), that they should be paid the same salary and allowances and given the same conditions of service as in the case of regular Class IV Mates.

2. On 4.5.1988, the Tribunal passed an order directing that the applicants should be provisionally taken back as Daily Paid Mates if any Daily Paid Mate junior to them is still being engaged.

3. It may be mentioned at the outset that the D.M.S. employees union had filed OA-1059/87 in this Tribunal in a representative capacity praying that the Daily Paid Mates (Badli workers) appointed as such in the D.M.S. from different dates between 14.5.1981 onwards, should be treated as regular employees in all matters relating to salary, allowances, medical facilities, TA, DA, etc., from the date of their initial appointment with payment of arrears of interest. They had also prayed that the Badli workers should be brought over to regular establishment. By the judgement dated 21.10.1987, the Tribunal allowed the application and passed the following directions:-

(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) Those of Daily rated Mates who 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, in any, in their employment subsequent to the date of such regularisation should be treated as leave with or without pay as due or 'dais non' as the case may be.

Supplementary 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.

4. Special Leave Petition filed by the respondents in the supreme Court against the aforesaid judgement was dismissed by that court. The applicants claim that they belong to the same category but their services have not been regularised and by not allowing them to enter the premises of the D.M.S. they have been prevented from doing their work.

5. The facts of the case in brief are that the applicants in the present case were also similarly employed as Daily Paid Mates, since march, 1987. They had been recruited through the employment Exchange by the respondents. They were being paid wages at the rate of Rs. 13.60 per day for the days of work with no leave or holiday of any kind, except the three national holidays. They were also not given uniform, liveries or other amenities as are given to regular employees. From October, 1987 onwards, the applicants have not been allowed to work.

6. The contention of the applicants is that in accordance with the Certified Standing Orders for the employees of the D.M.S. (Annexure II), they would fall under the category of "casual workers" who are to be regularised if they have continuously worked for three months. Even if they are to be treated as "Badli" workers, the certified standing orders provide that those Badli workers who have actually worked for not less than 240 days in any period of 12 months, shall be transferred to the

regular establishment. They claim that they have been continuously working in their jobs for about 240 days but have not been transferred to the regular establishment.

7. The case of the respondents is that the applicants were not casual workers but were Badli Workers who were engaged for a short duration. According to them, the applicants neither worked continuously in their jobs nor did they complete 240 day's attendance. They have further contended that the applicants are not entitled to leave of any kind except national holidays, or any other amenities provided to the regular employees.
8. We have carefully gone through the records of the case and have heard the learned counsel of both the parties. The issue before us had been keenly contested by both the parties. The respondents have raised several preliminary objections to the maintainability of the application such as that they do not hold civil posts and on that though the D.M.S. is an industry within the meaning of the Industrial Disputes Act, the applicants have rushed to this Tribunal without exhausting the remedies available to them under the said Act.
9. With regard to the preliminary objection that the applicants are not holders of civil posts, the matter is already concluded by the judgement delivered by the full Bench of this Tribunal in TA-161/86 and connected cases (Rehmatullah Khan & Others vs. Union of India & others) delivered on 24.4.1989 the full Bench of the Tribunal held that the Tribunal has the jurisdiction to entertain the cases of casual laborer/daily rated/daily wager under Section 19 of the Administrative Tribunals Act.
10. The learned counsel for the respondents has raised a preliminary objection that the application is not maintainable as the applicants have not exhausted the remedies

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available to them under the Industrial Disputes Act. He relied upon some rulings (*) in support of his contention.

11. As against this, the learned counsel for the applicant had contended that the Tribunal has jurisdiction to entertain the application and he has also cited before us the rulings (**) in support of his contention.

12. It is unnecessary to discuss the various rulings relied upon by the learned counsel for both the parties. The question as to the applicability of the provisions of the Industrial Disputes Act and in particular, section 25F thereof, to proceedings before the Central Administrative Tribunal and the jurisdiction, power and authority of this Tribunal to grant relief if the order of termination of service does not conform to Section 25F of the ID. Act, has been considered by a larger Bench of the Tribunal in S.K. Sisodia vs. Union of India and Others, 1989 (1) SLD, CAT 449. It was held that the Tribunal has jurisdiction to decide such matters. There is no absolute bar under Section 20 of the Administrative Tribunals Act to entertaining an application if the applicant has not availed of the remedies available to him under the relevant service rules as to the redressal of grievance. Discretion is vested in the Tribunal to entertain an application even if the applicant has not exhausted the remedies available to him. This is clear from the language of section 20 of the Administrative Tribunals Act which provides that "the Tribunal shall not ordinarily admit an application, etc., in a case of this kind before us where the applicants have not been allowed to work for several months, the discretion of the Tribunal has to be exercised in-favour of the applicants and the application should be decided on merits. It will not be just and proper to insist on the applicants' exhausting available remedies under the Industrial Disputes Act which are not only time-consuming but also not efficacious.

13. The records of the case do not substantiate the contention of the respondents that the applicants were Badli workers within the meaning of the certified standing Orders of the D.M.S. The applicants have also not been able to produce any document to substantiate their claims that they were casual workers. Their claim may however, be considered on the basis that they were Badli workers. It has, therefore, to be seen whether they had actually worked for not less than 240 days in any period of 12 months. In case they have so worked, they would be entitled to be transferred to regular establishment under the said standing orders.

14. As to the number of days worked by the applicants, the particulars furnished by both parties do not tally as will be seen from the following tables:-

S.No.	Name of Applicant	No. of days worked as per respondents	No. of days worked as per applicants	Addl. Days claimed claimed by applicant towards sick leave and Sundays and day of night days.
1.		2.	3.	4.
1. Pramod Kumar		209	226	Plus 15+80 = 321
2. Rohit		198	228	Plus 8+50 = 286
3. Rajinder Kumar		193	232	Plus 8+65 = 305
4. Hari Nandan		231	238	Plus 3+85 = 326
5. Krishan Dev		209	229	Plus 12+72 = 313
6. Suresh Mehta		207	231	Plus 10+65 = 306
7. Ram Bali		169	230	Plus 11+70 = 311
8. Vasudeva		184	231	Plus 19+68 = 309
9. Lakhman Mehta		213	233	Plus 8+50 = 291
10. Shambhu Prasad		208	234	Plus 7+65 = 306
11. Hari Narain		180	190	Plus 50+60 = 300
12. Ravinder Pathak		225-1/2	233	Plus 8+73 = 314
13. Vinod Kumar		209	230	Plus 11+81 = 321
14. Ram Udgari		206	231	Plus 9+75 = 315
15. Rajinder Kumar		217-1/2	226	Plus 15+60 = 301
16. Rajesh Kumar		185	229	Plus 7+50 = 286
17. Mohinder Singh		148	180	Plus 34+97 = 311

15. The respondent have given the above figures through an affidavit filed by Shri. J.R. Aggarwal, Personnel officer of the Delhi Milk Scheme. The applicants have also given the above figures by an affidavit duly signed and sworn by them before an Oath Commissioner.

16. Despite ample opportunity given to the respondents to produce before us any records to show how the applicants could be treated as Badli Workers and in whose place they occupied the post they worked, they have chosen not to do so.

17. In a somewhat similar case of H.D. Singh, Vs. Reserve Bank of India, 1985 SCC (L&S) 975, the Supreme Court had occasion to consider whether for the purpose of computing the period of 240 days in a year. Sundays and other paid holidays could also be included. In that case, the contention of the respondents was that the employee had worked for 4 days in 1974, 154 days from January, 1975 to December, 1975 and 105 days from January, 1976 to July 1976. The employee was denied work from July, 1976. They did not take into account Sundays and other holidays in computing the number of days that the employee worked. The affidavit filed by the employee established that he worked for 202 days. He contended that if 52 Sundays and 17 holidays were also added, the total number of days on which he worked would come to 271 days. Upholding his contention, the Supreme court directed that the employee should be entitled as a regular employee, reinstate him and pay him back wages. The Supreme Court set aside the order of the Industrial Tribunal and held that the striking off of his name from list II amounted to retrenchment under Section 2 (00) of the Industrial Disputes Act and was in violation of Section 258 thereof.

18. In the conspectus of acts and circumstances of the case, we are of the opinion that the applicants shall be deemed to have been transferred to the regular establishment from 1st November, 1987. The striking off of their names from the rolls of workmen of the respondents amounted to retrenchment under section 2 (00) of the Industrial Disputes Act and was in violation of Section 258 thereof. In the circumstances of the case, we do not pass any order regarding payment of back wages. The intervening period should be treated as leave with or without pay as due or dies non, as the case may be. Subsequently, if the regular establishment may be created, if necessary. The respondents shall comply with the above directions within a period

of three months from the date of receipt of this order. There will be no order as to costs.

(M.M. Mathur)
Administrative Member

(P.K. Kartha)
(Vice Chairman (Judl..))

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Annexure-

Item No. 48

Court No. 6

Section XIV.

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Petition(s) For Special leave to Appear (Civil) No98, 1085 of 1990

(From the Judgement and order dated 10.8.1989 of the High Court of Central Administrative. Tribunal, NEW DELHI)

In

Union of India & Anr

...Petitioner(s)

VERSUS

Sh. Pramod & Ors.
(With appln. For ex-parte stay).

...Respondent(s)

Date: 5.2.1990 : This/These petitions was/were called on for hearing today COARM:

Hon'ble Mr. Justice L. M. Sharma
Hon'ble Mr. Justice P. B. Sawant.

For the Petitioners: Mr. N.B. Hegde, AS, Mr. C. Ramesh,
 Mr. C.B.S. Rao, Adv.

For the Respondents:

UPON hearing counsel the Court made the following

ORDER

The Special Leave petition is dismissed

(S.R. Thite)
Court Master.

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A. M. Garg

No. 10-1/88-Estt.III,
Government of India,
Delhi Milk Scheme
West Patel Nagar,
New Delhi-8

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Dated the 16th July, 90

PART I OFFICE ORDER NO. 19 OF 1990

In terms of the judgement given by the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 37 of 1988 (court case of Shri Promod Kumar & others V/s Union of India and others) dated 10.8.89 and further orders passed on 16.1.90 in this behalf, the following Badli Workers are appointed to the supernumerary posts of Mates in the pay scale of Rs. 750-12-870-EB-14940 (revised to Rs. 800-15-1010-EB-20-1150) w.e.f. 1.1.90 in the establishment of Delhi Milk Scheme from the date mentioned against each :

S.No.	Name	Father's Name	Date of appointment as Badli worker (Daily paid in DMS)	Date of appointment to the supernumerary post of Mate in DMS
1.	Shri Suresh Mehto	Sh. Bindu Mehto	4.3.87	1.11.87
2.	Sh. Ram Bali Mehto	Sh. Mahavir Mehto	4.3.87	1.11.87
3.	Shri Hari Nandan Parshad Mehto	Sh. Bajrangi Mehto	4.3.87	1.11.87
4.	Sh. Krishan Dev Chaudhry	Sh. Asharif Lal Chaudhry	4.3.87	1.11.87
5.	Sh. Rajinder Kumar Mehto	Sh. Paltan Mehto	4.3.87	1.11.87
6.	Sh. Promod Kumar	Sh. Brahm Dutt	4.3.87	1.11.87
7.	Sh. Ravinder Pathak	Sh. Surya Kant Pathak	5.3.87	1.11.87
8.	Sh. Shambhu Parshad Singh	Sh. Jagdish Prashad Singh	5.3.87	1.11.87
9.	Sh. Vasu Dev Prashad Singh	Sh. Ram Narain Pd Singh	5.3.87	1.11.87

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10.	Sh. Lakhao Mehto	Sh. Rameshwar Mehto	5.3.87	1.11.87
11.	Sh. Hari Narain Singh	Sh. Fuleshwar Singh	5.3.87	1.11.87
12.	Sh. Ram Udgao Rajak	Sh. Anoop Lal Rajak	6.3.87	1.11.87
13.	Sh. Rajinder Kumar	Sh. Ram Pat	6.3.87	1.11.87
14.	Sh. Rajesh Kumar Sharma	Sh. Radhey Shyam Sharma	9.3.87	1.11.87
15.	Sh. Rohitas Harijan	Sh. Suraj Bhan	9.3.87	1.11.87
16.	Sh. Mohinder Singh	Sh. Partap Singh	18.3.87	1.11.87

The terms and conditions of their appointment will be as under :-

1. They will be deemed to have been appointed to the supernumerary posts of Mates with effect from 1.11.87, but will not be entitled to be paid any pay and allowances for the period from 1.11.87 to 29.11.89.
2. They will be entitled to be paid the pay plus allowances in the pay scale of Rs. 750-940 from 30.11.89 to 31.12.89 and Rs. 800-1150 from 1.1.90 onwards as admissible. This also refers to this office order No.197 issued under No. 10-1/88-Estt.III dated 16.2.90.
3. The period of their appointment from 1.11.87 to 29.11.89 will be treated as dies-non.
4. They will be deemed to have completed 6 month's probation period from 1.11.87 satisfactorily.
5. They are liable to be posted anywhere in India under the establishment of Delhi Milk Scheme.

6. The appointing authority however, reserve the right of terminating the services of the appointees in this Department by giving one month's notice or by making payment to them of a sum equivalent to the pay and allowances for the period of the notice or unexpired portion thereof.

7. They will hold these posts till they retire, resign or otherwise vacate the posts, whichever is earlier.

8. Their appointment will further be subject to :

1) Verification of Character and Antecedents by by the Judicial authority.

9. Other conditions of their service will be governed by the rules and orders of the Govt. of India inforce from time to time as applicable to the employees of this category in Delhi Milk Scheme.

(Hindi version, will follow)

sd/-

(DIPAK JAIN)
Dy. GENERAL MANAGER(ADMIN.)

DISTRIBUTION :

1. Persons concerned	7. CR cell
2. Accounts (Estt.) Section	9. Vigilance Section
3. Pay & Accounts Office, DMS	11. Security Officer
4. General Section	12. Office Order file
5. Time Office	15. Court case file.
8. Manager (CD)	16. Hindi Officer for Hindi version
10. S.W.O.	
12. Book & Budger Sec.	
14. Personal files	
15. Guard file	

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A. M. Garg

No. 1-4/90 - Establishment -3

Government of India

Delhi Milk Scheme, West Patel Nagar

New Delhi-110008

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Annexure - VIII

Dated 19.6.96

Part I office order No.20 of 1996

The following employees, who have been appointed on the supernumerary posts of Mate in Delhi Milk Scheme, are now regularised in the establishment of Delhi Milk Scheme on the posts of Mate in the pay scale of Rs.800-15-1010-EB-20-1150/-

Sl. Name and Father's Name
No.

1. Shri Attar Kumar S/o Shri Ghisu Ram
2. Shri Raj Kumar S/o Shri Bhagu Thakur
3. Smt. Anguri Devi W/o Late Shri Hari Singh
4. Smt Sunaina Devi W/o Late Shri Rajendra Mehta
5. Smt Smt. Shakuntal Devi W/o Late Shri Kulanand
6. Shri Madan Kumar S/o Shri J.N. Lal
7. Smt Vimla Devi W/o Late Shri Randhi Singh
8. Shri Suresh Chand S/o Shri Jiya Ram
9. Shri Chandrabhushan S/o Shri Jagdev Singh
10. Shri Narendra Kumar S/o Shri Bale Ram
11. Shri Bhule Ram S/o Shri Gyani Ram
12. Shri Braham Prakash S/o Shri Bili Chand
13. Shri Om Prakash S/o Shri Yog Raj
14. Shri Madan Pal Singh S/o Shri Naubat Singh
15. Shri Rajmani Pande S/o Shri Devi Prasad Pande
16. Shri Rohtas Harisan S/o Shri Suraj Bhan
17. Shri Mahindra Singh S/o Shri Pratap Singh
18. Shri Pramod Kumar S/o Shri Braham Dutt
19. Shri Rajesh Kumar S/o Shri Radhey Shyam

20. Shri Vasudev Prasad S/o Shri Ram narayan
21. Shri Suresh Mehto S/o Shri Binda Mehto
22. Shri Krishna Dev Chaudhry S/o Shri Asarafi Lall
23. Shri Shambhu Prasad S/o Shri Jagdish Prasad
24. Shri Hari Narain S/o Shri Puleshwar
25. Shri Vinod Kumar S/o Shri Shivcharan
26. Shri Rajinder Kumar S/o Shri Paltan Mahto
27. Shri Harinandan Rai S/o Shri Bajrangi Mehto
28. Shri Rambali Mehto S/o Shri Mahavir Mehto
29. Shri Ravindra Pathak S/o Shri Suryakant
30. Shri Lakhman Mehto S/o Shri Rameshwar Mehto
31. Shri Rajendra Kumar S/o Shri Ram Lal
32. Shri Ram Udgir Rajak S/o Shri Anoop Lal
33. Shri Ajab Singh S/o Shri Begh Raj
34. Shri Braham Singh S/o Shri Ram Singh
35. Shri Jeevan Singh S/o Shri Raje Singh
36. Shri Lakhinder Paswan S/o Shri Ram Chandra
37. Shri Paras Chand S/o Shri Mangal Ram
38. Shri Jaiveer Singh S/o Shri Mahabir Singh
39. Shri Dayachand S/o Shri Chandreshwar
40. Shri Jainarayan Rai S/o Shri Prem Lal Rai

(Total Forty)

Sd/-

(Rajendra Chauhan)
General Manager

Copy to:-

1. Concerned Employees
2. Accounts (Estt.) Section
3. Office Order File
4. Personal File
5. Vigilance Section
6. General Section
7. Pay And Accounts Section

L.R.

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A.M. Garg

No. 10-9/96-Establishment-3

Govt. of India

Delhi Milk Scheme West Patel Nagar

New Delhi-110006

Dated 5.11.97

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Annexure-IX

Part-I office order No. 78 of 1997

In compliance of orders dated 2.12.93, 7.2.95 and 18.2.96 passed by Central Administrative Tribunal Principal Bench New Delhi in O.A. No. 1107/88, O.A. No. 1543/90 and O.A.No. 1337/90 the following Badli Workers are appointed on ~~Supervisory~~ post in the establishment of Delhi Milk Scheme in the pay scale of Rs. 750-12-870-E.V.-14-940(Pre-revised) from the date mentioned against their name and in the payscale of Rs-800-15-1010-EB-20-1150(revised) from 1.1.1990:-

Sl. No.	Name & Father's Name	Date of appoint as Badli Worker in D.M.S.	Date of appointment to the supervisory post of mate in DMS
1.	Shri Bhagmal Singh S/o Shri Chetter Singh	6.3.83	1.4.88
2.	Shri Kalu Ram S/o Sh. Bhoop Singh	18.3.87	1.4.88
3.	Shri Surjeet Singh S/o Shri Rishal Singh	9.3.87	1.4.88
4.	Shri Balwan Singh S/o Shri Banwaril Lal	9.3.87	1.4.88
5.	Shri Jangbir Singh S/o Shri Dina Ram	10.3.87	1.4.88
6.	Shri Sube Singh S/o Shri Prabhu Dayal	10.3.87	1.4.88
7.	Shri Ranjeet Singh S/o Kukhitiar Singh	19.3.87	1.1.95
8.	Shri Ram Nath Shri Kewal Singh	19.3.87	1.3.95
9.	Gyan Chand S/o Shri Rishal Singh	2.4.94	1.4.95

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10.	Shri Maman Chand S/o Shri Ram Kishan	28.3.94	1.4.95
11.	Shri Jaiveer Singh S/o Shri Gagan Singh	2.5.94	1.5.95
12.	Shri Ramesh Kumar S/o Shri Krishan Lala Banwarilal	2.5.94	1.5.95

2. The period of absence from the date of appointment on the supernumerary post of mate till the date of issue of this order will be treated as dies-non.
3. They are liable to be posted anywhere place in India under the establishment of Delhi Milk Scheme.
4. They will be deemed to have completed 6 months probation satisfactorily.
5. The appointing authority, however, reserve the right of terminating the services of the appointees in this Department by giving one month's notice or by making payment to them of a sum equivalent to the pay and allowances for the period of the notice or unexpired portion thereof.
6. They will hold these posts till they retire resign or otherwise vacate the posts whichever is earlier.
7. Their appointment will further be subject to verification of character and antecedents by the judicial authority.
8. other conditions of their services will be governed by the rules and orders of the Govt. of India in force from time to time as applicable to the employees of this category in Delhi Milk Scheme.
9. The competent medical officer has medically examined them and they have been found fit.

Sd/-
(R.K. Mitra)
Delhi General Manager (Admn.)

This Annexure is the true
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A. M. Garg

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Copy to:-

1. Concerned Employees
2. Accounts (Estt.) Section
3. Pay & Accounts office, D.M.S.
4. General Section
5. Time office
6. Manager (C.D.)
7. Senior Transport officer
8. Transport Section
9. Vigilence Officer
10. Book and Budget Section
11. Personal File
12. Vigilence Section
13. Court case File
14. Guard File

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A. M. Gang

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Annexure-X
Copy

O.A. No. 2958/97

66

New Delhi this the 11th Day of January 1999.

Hon'ble Mr. R.K. Ahooja, Member (A)

1. Mohd. Younus Khan,
S/o Shri Amir Ahmed Khan,
D-160, Sanjay Park,
Baljeet Nagar,
New Delhi-110 008.
2. Shri Upendar Thakur,
S/o Shri Ram Chander Thakur,
1-2 Block,
Pusa Campus IARI,
New Delhi-110 012.
3. Shri Chandeshwar
S/o Shri Ram Suhag ,
10/145, DMS Colon,
Hari Nagar,
New Delhi.
4. Shri Ram Kumar,
S/o Shri Mangal Singh,
23-277, Pandav Nagar,
New Delhi.
5. Shri Krishan Dutt,
S/o Shri Badri Prasha,
R/o Delhi Milk Scheme,
West Patel Nagar,
New Delhi.
6. Shri Shiv Chander,
S/o Shri Makhen Mehto,
R/o G-213 Mangol Puri,
New Delhi.
7. Shri Raj Kumar,
S/o Shri Mohinder Paswari,
R/o I-93 Krishi Kunj,
Pusa, New Delhi.
8. Shri Nanak Singh,
S/o Shri Khamni Singh,
R/o D-820 Jhahagirpuri,
New Delhi-110 033.
9. Shri Rajinder Singh,
S/o Shri Chanderka,
R/o E-4/2, Sultan Puri,
New Delhi.
10. Shri M. Shri Lal,
S/o Shri Anaut Ram,
R/o Jawaharlal T/672/2,
Gali No. 21, Baljeet Nagar,
New Delhi-110 008.

11. Shri Shakal Dev,
S/o Shri Nathuni Paswan,
R/o B-24 IARI, Pusa,
New Delhi.
12. Shri Baij Nath,
S/o Shri Ramdev Paswan,
R/o 8/120 DMS Colony,
Hari Nagar,
New Delhi.
13. Shri Ram Niwash,
S/o Shri Man Singh,
R/o A-17, Vikash Vihar,
Kakrola More,
New Delhi.
14. Shri Ranvir Singh,
S/o Shri Vagh Ram Singh,
R/o A-460, Pandav Nagar,
Shadipur,
New Delhi.
15. Shri Anil Kumar,
S/o Shri Brahm Dutt,
R/o 19/245, Sarai Basti,
Delhi.
16. Shri Ram Shakal,
S/o Shri Ram Sagar Sahni,
Block No. 115, Room No. 1722,
Krishi Kunj, Pusa,
New Delhi.
17. Shri Narendra Kumar,
S/o Shri Guru Charan,
R/o Block Noi. 468/69,
Jhahagirpuri,
New Delhi.
18. Shri Balbir Singh,
S/o Shri Mung Ram,
R/o T-8H Railway Quarters,
Sarai Rohila, New Delhi.
19. Shri Kamleshwar Rao,
S/o Shri Ram Briksh,
R/o A-19, Samtadham Jhuggi,
Hari Nagar,
New Delhi.
20. Shri Triloki Nath,
S/o Shri Tara Chand,
R/o 2104/5, Gali No. 10,
Prem Nagar,
New Delhi.
21. Shri Pravvesh,
S/o Shri Kukeshwar Ram,
R/o DMS, Patel Nagar,
New Delhi-110 008.

J.

22. Shri Kapildev,
S/o Shri Ramlakshan Mahto,
R/o WZ 121-C, Todapur,
New Delhi.

23. Shri Tuntun Thakur,
S/o Shri Ram Avtar Thakur,
I-2, Chirya Colony,
IRI, Pusa,
New Delhi-110 012.

Applicants

(All working as daily-rated mate in DMS,
Patel Nagar, New Delhi).

(By Advocate: Smita Mitra Garg)

-Versus-

1. Union of India through
the Secretary,
Ministry of Agriculture,
(Department of Agriculture &
Animal Husbandry and Dairy),
Krishi Bhawan, New Delhi.

2. The Chairman,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi.

Respondents

(By Advocate: Shri N.K. Aggarwal)

O R D E R

Hon'ble Shri R.K. Ahooja, Member (A)

The applicants, 23 in number, have been working as daily rated mates from January 1995 in Delhi Milk Scheme. They had come before the Tribunal twice in O.A. No. 1996/97 which was dismissed as premature and then with O.A. No. 2514/97 which was disposed of with a direction to the Chairman, Delhi Milk Scheme to decide the representation of the applicants within a period of three months. It is now against the decision of the Chairman dated 26.11.1997, Annexure A, that the applicants have come before the Tribunal for the third time.

2.

2. The case of the applicants, in short, is that in terms of this Tribunal's orders in O.A.No. 37/88 and O.A.No. 948/88 confirmed by the Supreme Court in SLP No. 1085/90, they are entitled to transfer to regular establishment on completion of 240 days of regular engagement. On the other hand, the respondents contest the claim on the ground of limitation and also on merits since according to them there are no vacancies available in the regular establishment.

3. I have heard the counsel on both sides. In a similar case in O.A.No. 2415/97 with O.A.No. 2414/97, decided on 22.4.1998 where a similar relief on similar ground was sought, the following direction were given:

- i) Since the applicants have completed 240 days in a period of 12 months, the respondents will transfer them to the regular establishment w.e.f. 1st day of the month immediately following the 12 months of the said period.
- 2) The respondents will issue necessary orders and pay the difference of salary etc., to them from one year preceding to the date of filing their application in this Tribunal i.e. 22.12.1997. This shall be done within a period of 4 months from the date of communication of this order.

4. In that case also, the respondents had taken the plea that regular vacancies were not available and the cases of transfer of the applicants to regular establishment will be considered only on the availability of regular vacancies. The objection on the ground of limitation was also raised. The relief was granted on the following consideration:

3.

"I have considered the matter carefully. It is stated by the respondents themselves that the daily rated workers working in the DMS are governed by the Certified Standing Orders which provide for transfer of such of them who have rendered 240 days in service in a period of 12 months to the regular establishment. This being so, the case of the applicant is to be regulated in terms of directions given by this Tribunal in OA 1059/87. However, as regards the relief sought by the applicant in regard to payment of wages from March 1995, the same has to be decided in terms of the time frame in which they have approached this Tribunal. It is noted in that context that the present OA has been filed on 11.10.1997."

5.. Since the present case is on all fours with O.A. No. 2415/97 and O.A. No. 2414/97, the same relief is allowed in the present O.A. and the following directions are given to the respondents:

- i) Since the applicants have completed 240 days in a period of 12 months, the respondents will transfer them to the regular establishment w.e.f. 1st day of the month immediately following the 12 months of the said period.
- 2) The respondents will issue necessary orders and pay the difference of salary etc., to them from one year preceding to the date of filing their application in this Tribunal i.e. 22.12.1997. This shall be done within a period of 4 months from the date of communication of this order.

(R.K. Ahuja)
Member (A)

SERIALIZED
CERTIFIED TRUE COPY
Recd. Dated

20/11/99
NAME & SIGN/Section Officer

RECORDED

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M. George

रा. 1-4/90-स्था०-३
भारत सरकार
प्रिली हुग्ध योजना
१०८ फटेल कार
नं. प्रिली-८

दिनांक 7 सितम्बर, 1999

कायलिं आदेश

मान्यता प्राप्ति के दिनांक 17.८.९९ का रा. 1-4/90-स्था०-३ के अन्तर्गत आरी
पारा-१ कायलिं आदेश नं. ३। में आंशिक रूपों का अन्तर्गत हुए निम्नलिखित 23 डेलीपेडो
की रकमपारा 26.५०-६५-३३००-७०-४००० रुपये के वेतनमान में 12 महीने की क्रियत
ज्ञापित में जब उन्हींने डेलीपेडो के लिए 240 दिन की हासिरी पूरी कर ली है उसके
हित चाद वाले महीने की पहली तारीख से उन्हें नाबों के आगे दी गई तारीखों ते भेट
पैसों कर अंतरित किए जाने के आदेश दिस जाते हैं : -

संख्या	नाम	पिता का नाम	अंतरित किए जाने की तारीख
१.	सर्वकी राम कुमार	सर्वकी गंगा सिंह	१.१०.९५
२.	रामेन्द्र सिंह	रामेन्द्र सिंह	१.१०.९५
३.	मोहन्युध खान	मोहन्युध झटमद खान	१.११.९५
४.	शिव चन्द्र भट्टो	मकुर्जन भट्टो	१.११.९५
५.	रामकुमार	महेन्द्र पालवान	१.११.९५
६.	नानक सिंह	ज्ञानी सिंह	१.११.९५
७.	सुन्दरी नाल	अनन्त राम	१.११.९५
८.	स्कॉल देव पालवान	नवनी पालवान	१.११.९५
९.	पंजामाय पालवान	राम देव पालवान	१.११.९५
१०.	कपोरवर राम	राम बृह राम	१.११.९५
	किंगीरी नाथ	सिंहासन	१.११.९५
१२.	राम प्रेमज रघु	हुकेर रघु	१.११.९५
१३.	हुम हुन ठाहुर	राम इमतार	१.११.९५
		ठाहुर	
१४.	प्रियान दत्त	बद्री इसाई	१.१२.९५
१५.	उपेन्द्र ठाहुर	राम बद्र ठाहुर	१.१२.९५
१६.	चन्देश्वर प्रसाद	राम सोहाग सिंह	१.१२.९५
१७.	राम निवास	मान सिंह	१.४.९६
१८.	रमपाल सिंह	बेग राम	१.४.९६
१९.	राम स्कॉल लोहनी	राम खान	१.४.९६
		लोहनी	
२०.	नरेन्द्र कुमार	हुलधर नाल	१.४.९६
२१.	बलबीर सिंह	मांगी राम	१.४.९६
२२.	जनि कुमार	श्रद्ध दत्त	१.६.९६
२३.	कंपिल देव	राम लगजन भट्टो	१.६.९६

क्रेका रेफर्नेंस

जारी . . .

-2-

अन्य शर्ते सर्वं उपचंथ देशी हों । रहेगें ।

आरोड़ मित्रा
उप्र बहाप्रधान

वितरण

१. संबंधित कर्मचारी
२. वैयक्तिक फाइल
३. वेतन एवं लेखा कार्यालय क्रियालयी हुग्ध योजना
४. लेखा स्थान अनुभाग
५. मुख्य समयपाल, समय कार्यालय
६. गाड़ी फाइल
७. संबंधित कोर्ट केस फाइल
८. वरिष्ठ परिवहन अधिकारी
९. चुक्के एवं खट अनुभाग
१०. सामान्य अनुभाग
११. प्रधानकार्यालय डेरा
१२. डिन्दी जिधिकारी

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A. M. Garg

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

M.A. NO. 2737 OF 2000

IN

O.A. NO. 2318 OF 2000

In the matter of:

Bhanwar Lal and others

.. Applicants

-Versus-

Union of India and another

.. Respondents

AN APPLICATION UNDER RULE 4(5) OF THE

CENTRAL ADMINISTRATIVE TRIBUNALS ACT, 1987

1. That in the above Original Application the Applicants have sought their transfer to regular establishment of Delhi Milk Scheme in accordance with the certified standing orders and the directions issued by this Hon'ble Tribunal vide order dated 2.8.1991 in Original Application No. 948 of 1988 etc., Judgment and Order dated 10.8.1989 in Original Application No. 37 of 1988 and judgment and order dated 11.1.1999 passed in O.A. No. 2958/97 from the date they have completed 240 days, including Sundays and other paid holidays, in a year as Badli Workers/Casual Labourers. It is pertinent to point out that the order dated 10.08.1989 in O.A. No. 37/88 was confirmed by the Hon'ble Supreme Court vide order dated 5.2.1990 in SLP (Civil) No. 1085 of 1990.

2. That having regard to the nature of the reliefs prayed for in the above application, the Applicants have a common cause of action. The Applicants, therefore, seek to join together in one application to save the precious time of this Hon'ble Tribunal.

....

PRAYER

In the above premises it is most respectfully
prayed that this Hon'ble Tribunal may be
pleased to:

- (a) permit the applicants to join together
in the above Original Application;
- (b) pass such further or other order(s)
which this Hon'ble Tribunal may deem
fit in the facts and circumstances of
the case.

FILED BY:

S. M. Garg
(SATYA MITRA GARG)
ADVOCATE FOR THE APPLICANTS

FILED ON: 2.11.2000
AT NEW DELHI

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 2318/2000

Sh. Bhanwar Lal & ors.
(By Sh. S.M. Garg)
Advocate

VERSUS

Union of India
(By Sh. Rajeev Bansal)
A.S.C.

N.D.O.H.

I N D E X

SL. NO.	DESCRIPTION	PAGES
1.	Counter Reply on behalf of Respondents	1 - 5
2.	Annexure R-1	6-7
3.	Memo of Appearance already on record.	

Received
S.M. Garg
29.3.2001

Rajeev Bansal

(RAJEEV BANSAL)
A.S.C

B-7/60/2, DDA Flat,
Safdarjung Enclave,
New Delhi-110 029.

New Delhi

Date: 30
5.3.2001

Phone (0) 610-4343

प्रधान व्यायामी/CAI (L.B)
आज दाखिल किया
Filed Today
30 MAR 2001
दाखिल नं/Filing No. 3097
उपरजिस्टर/Dy. Registrar

BHANWAR. SAM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. NO. 2318/2000

26

Sh. Bhanwar Lal & ors.

VERSUS

Union of India

COUNTER REPLY ON BEHALF OF RESPONDENTS

MOST RESPECTFULLY SHEWETH:

BRIEF FACTS OF THE CASE:

1. The Delhi Milk Scheme (DMS), impleaded as Respondent No. 2, here is a subordinate office of the Ministry of Agriculture, Department of Animal Husbandry & Dairying. The service conditions of regular staff working in the DMS is governed by Fundamental Rules & Supplementary Rules (FRSR) as amended from time to time. Respondent No. 2 is at times forced to deploy Badli workers in lieu of the regular staff who could not attend their duties due to some reason or the others. Therefore, these Badli workers are deployed only when the regular staff is either on regular leave or absent to avoid any disruption of work. These Badli workers are governed by Certified Standing Orders issued by the Govt. of India. The applicability of the Certified Standing Orders by the Govt. of India is confirmed.

2. Consequent upon the increase in the prices of milk supplied by DMS, there has been around 50% reduction in the sales. While earlier the sales were approximately 4 - 4.50 Lakh litres, nor after the price rise, the sale has come down to 2.20 lakh litres. Accordingly, the staff regularly employed in DMS itself is under-employed and as a result the incidents of employing Badli workers have come down drastically. It is here

fp

humbly submitted that only those Badli workers who are covered by various Judgments of CAT are being employed as a matter of routine without any significant contribution towards the production/sale.

(R)

3. It is humbly submitted that none of the applicants of the present O.A. has completed 240 days on the date of filing of the O.A. It is wrong and denied that any of the applicant has completed more than 240 days.

PRELIMINARY OBJECTIONS:

1. The application is pre-mature as the applicants have not exhausted the departmental remedy but have approached this Hon'ble Tribunal directly.

PARAWISE REPLY ON MERITS:

1. In reply to this para it is humbly submitted that there consequent upon the increase in the prices of milk supplied by DMS, there has been around 50% reduction in the sales. While earlier the sales were approximately 4 - 4.50 Lakh litres, nor after the price rise, the sale has come down to 2.20 lakh litres. Accordingly, the staff regularly employed in DMS itself is under-employed and as a result the incidents of employing Badli workers have come down drastically. It is humbly submitted that only those Badli workers who are covered by various Judgments of CAT are being employed as a matter of routine without any significant contribution towards the production/sale. It is also humbly submitted that none of the applicants of the present O.A. has completed 240 days attendance

(RJW)

in any 12 months of a year on the date of filing of the O.A. and as such they are not entitled to be transferred to regular establishment.

(2)

2-3. These paras need no reply being matter of record.

4(i-ii) In reply to these paras it is humbly submitted that none of the applicant has completed 240 days attendance in any 12 months of a year. The statement showing their attendance is annexed herewith as Annexure R-1.

4(iii) Contentions raised in this para are wrong and denied. As per the instructions contained in the Certified Standing Orders under Clause 4(iii), a Badli worker means a worker who is employed for the purpose of working in place of regular employee who are temporarily absent.

4(iv) In reply to this para it is humbly submitted that as none of the applicant has completed 240 days in any 12 months of a year, they are not entitled to transfer to the regular establishment of Mates. Thus, the Judgments cited are not relevant and are based on different set of facts. Therefore, there is no violation of Articles 14 and 16(1) of the Constitution.

4(v-viii) These paras are matter of record.

4(ix) Contentions raised in this para are wrong and denied. As none of the applicant has completed 240 days working attendance in a period of 12 months in a year, they are not entitled to be transferred to regular establishment. It is also

BW

wrong and denied that juniors were retained and freshers were employed.

(27)

4(x) Contentions raised in this para are wrong and denied. There are no artificial breaks as the Badli workers were not needed due to drastic reduction in milk production and supply. Work is not available. Applicants were discharged due to non-availability of work, and as such, they cannot claim continuity of service. Therefore, there is no violation of Rules and Certified Standing Orders and it cannot also be said to be wholly illegal and unconstitutional.

5. GROUNDs:

Contentions raised in the grounds are wrong and denied. None of the ground is available to the applicant. Applicants have not completed 240 days working attendance in any 12 months, therefore, they are not entitled to be transferred to regular establishment. As stated earlier, due to reduction of milk supply and sale there is no work available with the answering Respondents and therefore, all Badli workers, except those covered by some CAT/Court Orders were disengaged. The applicants being Badli workers, cannot be treated at par with the regular employees. It is wrong and denied that the applicants demanded any relief from the Department. On the contrary, they have approached this Hon'ble Tribunal directly.

6. Contentions raised in this para are wrong and denied. The applicants have not made any representation before approaching this Hon'ble Tribunal. As such, the present O.A. is not maintainable.

RJW

7. Contents of this para are denied for want of knowledge.

8-9. In the above facts and circumstances of the case it is humbly prayed that the application may kindly be dismissed with costs.

10-12. These paras need no reply.

through


For & on behalf of Respondents
Dy. General Manager(Admn)
दिंदुंयो०/D.M.S.
प० पटेल नगर/West Patel Nagar
नई दिल्ली/New Delhi-110008
Rajeev Bansal
(RAJEEV BANSAL)
A.S.C.

VERIFICATION

I, B.B.GARG working as Dy.G.M.(Admn.) in the office of Respondents do hereby verify that the contents of paras 1 to 12 above are true and correct to my knowledge and belief, gathered from official record. No part of its is false and nothing material has been concealed therefrom.

Verified at New Delhi on this 30th day of March 2001.


For & on behalf of Respondents
उप मंत्री प्रबन्धक (प्रशासन)
Dy. General Manager(Admn)
दिंदुंयो०/D.M.S.
प० पटेल नगर/West Patel Nagar
नई दिल्ली/New Delhi-110008.

(2)

**STATEMENT SHOWING DETAILS OF ALL THE APPLICANTS, INCLUDING
THE TOTAL NUMBER OF DAYS OF WORKING DURING THE YEAR 1998-99 OR 1999-2000**

Sl No.	Name	Father's Name	Card No.	Date of Joining	Total No. of working days in one year
1.	2.	3.	4.	5.	6.
1.	S/Shri Bhanwar Lal	S/Sh. Sarwan Kumar	1116	11.01.1999	224
2.	" Sunil Kumar	" Jawahar Lal	1017	12.05.1998	159
3.	" Rameesh	" Balwant Singh	998	16.5.1998	174
4.	" Sunder Lal	" Vir Singh	946	12.05.1998	180
5.	" Dhan Singh	" Samay Singh	1061	5.1.1999	229
6.	" Surender Prasad	" Hanari Ram	1064	5.1.1999	227
7.	" Pardeep Kumar	" Suresh Chander Sharma	1096	7.1.1999	221
8.	" Rakesh Kumar	" Sita Ram	1090	6.1.1999	228
9.	" Rajiv Ranjan	" Kuldip Sharma	1158	22.2.1999	136
10.	" Ram Shankar	" Kuldip Sharma	1154	22.2.1999	226
11.	" Sanjay	" Sumer Singh	1165	22.2.1999	227
12.	" Satender Singh	" Vir Singh	1161	21.2.1999	225
13.	" Jai Parkash	" Bhagwan Dass	1172	27.2.1999	219
14.	" Pawan Kumar	" Jagdish Kumar	1144	21.2.1999	226 1/2
15.	" Shamsher Singh	" Ram Singh	1140	20.2.1999	223



1	2	3	4	5	6
16.	S/Shri Amit Kumar	Shri Har Prakash	1168	22.02.1999	214
17.	S/Shri Jai Parkash	" Vishambar Dass	1131	22.02.1999	222
18.	" Virender Prasad	" Vijay Bahadur	1143	22.02.1999	227
19.	" Avdesh Kumar	" Ram Chander	1137	20.02.1999	225
20.	" Manish Kumar	" Suraj Parkash	987	16.05.1998	214
21.	" Shiv Prakash	" A.Yadav	1003	12-05-1998	179
22.	" Vikram Singh	" Shyam Lal	1017	20.05.1998	168
23.	" Khem Chander	" Mal Ram	1109	07.01.1999	229
24.	" Vijender	" Shyam Lal	1036	25.05.1999	162
25.	" Rajesh Kumar	" Dalip Kumar	1079	06.01.1999	219
26.	" Anil Kumar	" Surender Singh	1160	22.02.1999	217

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