

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

.....

O.A. 304/2000

(b)

New Delhi this the 9th day of Feb, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J).

Hon'ble Shri Govindan S. Tampi, Member(A).

01

VIJAY KUMAR  
S/O MR SITA RAM  
AGED 32 YRS (DOB: 1/7/67)  
R/O F-23 NEW USMAN PUR  
DELHI 110053

02

BHAIRAV DUTT  
S/O MR GANGA DUTT  
AGED: 30 YRS (DOB: 13/2/69)  
R/O 443/V R K PURAM  
NEW DELHI 110022

03

RAJ KUMAR  
S/O MR LAL CHAND  
AGED: 40 YRS (DOB: 21/1/60)  
R/O A-159 KATWARIA SARAI  
NEW DELHI 110016

04

PURAN CHAND  
S/O MR RAM DUTT  
AGED: 33 YRS (DOB: 15/11/66)  
R/O 745/SEC.II SADIQ NAGAR  
NEW DELHI 110049

9/

05

RAVI KANT SHARMA  
S/O MR C P SHARMA  
AGED: 33 YRS (DOB: 3/11/66)  
R/O C-7/36 DDA JANTA FLATS  
SECTOR 5 - ROHINI  
DELHI 110085

06

OM PARKASH-I  
S/O MR DEVKI NANDAN  
AGED 30 YRS (DOB: 1/10/69)  
R/O 17/275 KALYANA PURI  
DELHI 110091

07

ANJU GUPTA  
S/O MR S P GUPTA  
AGED: 33 YRS (DOB: 8/2/66)  
R/O C-64 JANTA FLATS  
RAM PURA, DELHI

08

VED PARKASH  
S/O MR RAM CHANDER  
AGED: 36 YRS (DOB: 9/10/63)  
R/O E-1/23 BUDH VIHAR PH-I  
NEW DELHI 110041

09

GIRI RAJ SHARMA  
S/O MR RAMLAL SHARMA  
AGED: 30 YRS (DOB: 5/9/70)  
R/O A-141 KIDWAI NAGAR  
NEW DELHI 110023

10

NIHAL SINGH  
S/O MR KESHRI  
AGED: 32 YRS (DOB: 3/9/67)  
R/O B-27 JANGPURA EXTENSION  
NEW DELHI 110014

11

RAJ KUMAR  
S/O MR KEHAR SIINGH  
AGED: 33 YRS (DOB: 8/12/66)

14

12

KRISHAN GOPAL  
S/O MR BANTA RAM  
AGED: 34 YRS (DOB: 2/3/65)  
R/O 151-A PARTAP VIHAR  
PH-I VILL. KARARI NANGLOI  
NEW DELHI 110046

13

BIRENDER SINGH  
S/O MR PREM SINGH  
AGED: 27 YRS (DOB: 1/3/72)  
R/O 227 TYPE-1 SECTOR-II  
SADIQ NAGAR  
NEW DELHI 110049

14

ARUN KUMAR SINGH  
S/O MR ADHIKARI SINGH  
AGED: 34 YRS (DOB: 1/6/65)

15

LAXMAN SINGH  
S/O MR PADAM SINGH  
AGED: 27 YRS (DOB: 19/3/72)  
R/O 582 SECTOR II  
SADIQ NAGAR  
NEW DELHI 110049

16

MS BINDRA DEVI  
W/O MR RAM CHANDER  
AGED: 33 YRS (DOB: 19/12/66)  
69-B DIZ AREA  
KHARAG SINGH MARG  
NEW DELHI 110001

17

OM PARKASH-II  
S/O MR RAM CHANDER  
AGED: 25 YRS (DOB: 1/3/74)  
R/O E-1 BUDH VIHAR PH.1  
DELHI 110041

18

MS SHASHI GUPTA

(5)

19

AMIT KUMAR SHARMA  
S/O MR S K SHARMA  
AGED: 25 YRS (DOB: 6/6/74)  
R/O 19 AURICHAND KHAND  
GIRI NAGAR, KALKAJI  
NEW DELHI 110019

20

SHYAM  
S/O MR RGHUBIR  
AGED: 24 YRS (DOB: 2/12/75)  
R/O STAFF QR NO. H-7  
WEST KIDWAI NAGAR  
NEW DELHI 110023

21

DHANANJAY  
S/O MR Ramlal SHARMA  
AGED: 19 YRS (DOB: 12/5/80)  
R/O A-141 KIDWAI NAGAR  
NEW DELHI 110023

22

RAJENDER SINGH CHAUHAN  
S/O MR GOKUL SINGH CHAUHAN  
G-52 NANAKPURA  
NEW DELHI 110021

23

DHAN SINGH  
S/O MR MAHABIR SINGH  
AGED: 23 YRS (DOB: 1/4/76)  
R/O 11/37 SECTOR I  
PUSHP VIHAR  
NEW DELHI 110067

24

VINAY KUMAR  
S/O MR MUKHLAL  
AGED: 24 YRS (DOB: 4/1/75)  
R/O E-120 DR RAJENDER  
PRASAD NGR DILSHAD GARDEN  
DELHI 110095

25

VISHAMBER DATT  
S/O MR HARI RAM  
AGED: 30 YRS (DOB: 5/10/69)  
R/O QR NO. 866 R K PURAM  
NEW DELHI 110022

26

TARA DUTT JOSHI  
S/O MR HIRA BALLABH JOSHI  
AGED: 26 YRS (DOB: 25/5/73)  
R/O QR N. 745  
SADIQ NAGAR  
NEW DELHI 110049

27

BHUPENDER SINGH RAWAT  
S/O SHRI D S RAWAT  
AGED: 23 YRS (DOB: 3/8/76)  
R/O G-26 NANAKPURA  
NEW DELHI 110021

(By Advocate Shri D.C. Vohra) APPLICANTS

V.

01

UNION OF INDIA  
THROUGH  
THE FOREIGN SECRETARY  
GOVT OF INDIA  
MINISTRY OF EXTERNAL AFFAIRS  
SOUTH BLOCK  
NEW DELHI 110011

02

THE REGIONAL PASSPORT OFFICE  
HUDCO TRIKOOT-3  
BHIKAJI KAMA PLACE  
R K PURAM  
NEW DELHI 110022

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

This application has been filed by 27 applicants praying for a declaration that they are entitled to financial compensation for doing ~~the~~ clerical work and that they should be paid the minimum of the LDC scale plus DA. They have relied on the judgement of the Tribunal (Jaipur Bench) in Annamma Thankachen Vs. Union of India (OA 120/93), decided on 26.10.1994 (copy placed on record). (6)

2. The brief facts of the case are that the applicants state that they have been working as casual workers/labourers with Respondent 2 for a number of years, some of them from 1986-87 onwards. They have submitted that they have been assigned clerical work of writing passports, establishment jobs, diary and despatch work, typing, PBX and computer operation and so on which are normally given to clerical staff. Dr. D.C. Vohra, learned counsel has, therefore, made a very impassioned plea that the respondents were doing nothing but exploiting the applicants, who are casual labourers and paying them the scale of pay of Group 'D' employees whereas they are entitled for payment as clerks, as they are performing clerical duties. The learned counsel has submitted that the respondents cannot deny the minimum of the pay of LDC to the applicants from the day they were asked to do only clerical type of work with all consequential benefits. He has relied on the judgement of the Tribunal (Jaipur Bench) in Annamma Thankachan's case (supra). He has submitted that as the applicants are similarly situated like the applicant Mrs. Annamma

\* Thankachen in that case, there is absolutely no reason why the respondents should deny the similar benefits and grant them the pay scale of a LDC with D.A.

(7)

3. The applicants have admitted that some of them had filed an earlier application before the Tribunal (Principal Bench) against the same respondents in the name of Giri Raj Sharma and others Vs. Union of India & Ors. (OA 2284/94) which was disposed of by Tribunal's order dated 30.10.1996. By this order, another OA 107/95 has also been disposed of by a common order. Dr. D.C. Vohra, learned counsel has submitted that the applicants had submitted a representation on 19.11.1999 requesting the respondents to pay them wages meant for Group 'C' employees as given to Mrs. Annamma Thankachen in the Pass Port Office, Jaipur as they were also discharging the duties and responsibilities meant for Group 'C' employees.

4. Learned counsel for applicants has relied on the Office Orders passed by the Regional Passport Office, New Delhi dated 20.7.1994 and 25.9.1995 (Annexures 'A-1' and 'A-4'). According to him, these show that the applicants have been re-deployed in various offices and are doing the work normally done by Group 'C' employees. Another document that he has particularly relied upon is a letter from the All India Passport Employees Association dated 23.9.1997 (Annexure A-7) which he states is from a rival association, in which they have objected to the administration continuing to deploy casual labourers to do regular sensitive and confidential work. He has submitted that this also shows that the respondents were exploiting the casual labourers by extracting the work of a clerical nature and paying them the wages of Group 'D' employees.

In the circumstances, he has prayed that the minimum that should be given to the applicants is the financial compensation for doing the work of a clerical nature, that is, the pay in the minimum of LDC-scale plus DA. (8)

5. The respondents in their reply have controverted the above averments. Shri N.S. Mehta, learned Sr. counsel has submitted that Annexure A-1 order relied upon by the applicants merely directs one of the applicants (applicant No.9) who is referred to as a casual labourer (Temporary Group 'D'employee) to take proper watch and care of the EPABX system which has nothing to do with work profile of a person holding the post of Telephone Operator. Similarly, he has submitted that Annexure A-4 letter dated 25.9.1995 cannot also assist the applicants as they have been referred to as casual labourer who are re-deployed in various sections of the office. With regard to Annamma Thankaachan's case (supra), learned counsel has stressed that the Tribunal had noted from the records that the applicant in that case was engaged as a casual worker on 2.5.1990 against a regular vacancy of clerk by the respondents and she has been continuously working there since that date. It was also found that she was performing all clerical works as was being done by any other regular LDC in the Passport Office and in the circumstances, the respondents were directed to grant the minimum of the pay scale of LDC with DA. He has submitted that this order has been implemented. However, learned Senior counsel has submitted that the Tribunal's order dated 26.10.1994 cannot assist the applicants because they are only performing the work of casual labourers in various sections.

have specifically denied the averments of the applicants that they are put to work in a clerical capacity. Shri N.S. Mehta, learned Sr. counsel has also referred to the Tribunal's order dated 30.10.1996 in O.A 2284/94 and O.A.107/95 in which the prayer of the applicants to pay them the wages of LDC on the principle of equal pay for equal work was dismissed. He has submitted that the directions of the Tribunal in these cases have also been implemented by granting the applicants 'Temporary Status' in terms of the DOP&T O.M. dated 10.9.1993. In the circumstances, learned Sr. Counsel has submitted that the applicants cannot agitate the matter for the same reliefs which they have already prayed for in OA 2884/94. They have stated that the services of some of the applicants have been regularised in Group 'D' posts as Peon and others will be regularised as and when vacancies will arise. He has, therefore, submitted that there is no merit in this application apart from the fact that it is also barred by the principles of res-judicata.

(9)

6. We have also heard Dr. D.C. Vohra, learned counsel in reply to the submissions made by Shri N.S. Mehta, learned Sr. Counsel. He had made a submission that the Tribunal should appoint a Commission to ascertain the correct position regarding the nature of duties the applicants are performing, which he states is nothing less than that of a clerical nature for which they ought to be justifiably compensated by giving them the minimum of pay of a LDC.

7. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties

8. One of the main planks on which the applicants' case rests is that they are similarly situated as Ms. Annamma Thankachen in OA 120/93. From a perusal of the documents on record, including the document to which specific attention was drawn by Dr. D.C. Vohra, learned counsel, we are unable to agree with this contention. The letter dated 20.7.1994 issued to applicant No.9 refers to him as a casual labourer (Temporary Group 'D') who is instructed to take proper watch and care of the EPABX system. From this letter, it is not possible to conclude that he was entrusted with the job which is normally performed by a Group 'C' employee/clerk. We find force in the submissions made by the learned counsel for the respondents that the letters dated 20.7.1994 or 25.9.1995 do not support the case of the applicants that they have been assigned duties of a clerical nature on the basis of which they have made the claim in the present O.A. Apart from this, there was no satisfactory explanation as to why the applicants in OA 2284/94 and OA 107/95 which have been disposed of by Tribunal's order dated 30.10.1996 could not have taken the same pleas in those cases which are taken in the present O.A. relying on the order of the Jaipur Bench dated 26.10.1994. We have also carefully considered the reliefs prayed for in OA 2284/94 with connected case and the present application is also clearly barred by the principles of res judicata.

9. The facts in Annamma Thankachen's case (supra) are quite different from the facts in the present case. In that case, the applicant was engaged as a casual worker

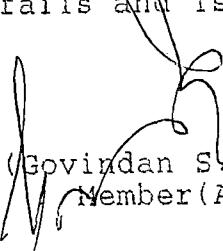
(20)

continuously in that capacity. That is not the position here. The applicants have only been employed as casual labourers and not against any posts of clerks. So the decision in Annamma Thankachen's case (supra) cannot assist the applicants. In terms of the Tribunal's earlier order dated 30.10.1996, it is further noted that some of the applicants have been regularised and others have been treated as Temporary Status Group 'D' employees.

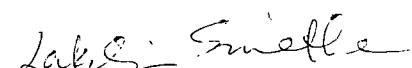
(21)

10. As mentioned above, as nothing has been placed on record to support the applicants' claims that they are deployed to do the work of a clerical nature for which they have to be financially compensated, the plea of the learned counsel for the applicants to set up a Commission to look into the matter does not also appear to be warranted. That plea is also accordingly rejected.

11. In the facts and circumstances of the case, we find no merit in this application. O.A. accordingly fails and is dismissed. No order as to costs.

  
(Govindan S. Tampi)  
Member (A)

'SRD'

  
(Smt. Lakshmi Swaminathan)  
Vice Chairman (J)