

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.753/2000

New Delhi this the 17th day of November, 2000

HON'BLE MR. V.K. MAJOTRA, MEMBER(A)

1. Anil Kumar
S/o Shri Laddu Ram,
R/o 8/6, Araksha Road,
Pharganj, Delhi.
2. Anand Singh
S/o Shri Tirlok Singh,
working as Group D employee in
Lady Harding Medical College,
New Delhi.
3. Ram Niwas
S/o Shri Chandgi Ram
Vill. Tikri Kala,
H.No. 195, Delhi-41.
4. Irshad Ali
S/o Shri Yasin Ali,
H.No. 17/1726, Vill. Pangoda,
Ghaziabad, U.P.
5. Fateh Singh,
S/o Shri Sukha Singh,
Vill. Noorpur, P.O. Tappar,
Distt. Aligarh, U.P.
6. Kailash
S/o Shri Mohan Lal,
Q.No. s646, School Block,
Shakarpur, Delhi-92.
7. Kailash
S/o Charan Singh,
Vill. Gadimendo,
Delhi.
8. Dhir Singh
S/o Shri Ilam Singh,
4/1630, Mahavir Block,
Bhola Nath Nagar,
Delhi.
9. Jagdish Chand, B-113
Ram Park, Loni, Ghaziabad,
U.P.
10. Hari Singh
S/o Shri Kundan
85/89, Panchkia Road
New Delhi.
11. Harshpal
S/o Shri Kirpal,
Sahibabad, Ghaziabad,
U.P.



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12. Pawan Singh
S/o Charan Singh
171/Sakarpur, School Block,
Delhi.
13. Parveen
S/o Shri Gurcharan
E/58, Gole Market,
Delhi.
14. Rajpal
S/o Amar Singh
Group D Employee
L.H.M.C.
Delhi.
15. Sanjay
S/o Bhoop Singh,
R/o 3/24, L.H.M.C., Compound
New Delhi-1.
16. Sanjay
S/o Chiranji,
E-577, Mangolpuri,
New Delhi.
17. Sunil
S/o Mohan Lal,
85/84 Panchkuia Road,
New Delhi.

-Applicants

(By Advocate: Shri M.K. Bhardwaj)

Versus

1. Union of India & Ors.
Through:-
The Secretary
Ministry of Health
Nirman Bhawan,
New Delhi.
2. The Chief Administrative Officer,
Lady Harding Medical College,
New Delhi-1
3. The Medical Superintendent
Lady Harding Medical College,
New Delhi-1

-Respondents

(By Advocate: Shri Madhav Panikar)

ORDER (Oral)

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

The applicants have been working with the respondents as Casual Labourers for the last 10 to 11



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years. They are aggrieved by the action of the respondents in holding interviews of fresh persons to appoint them against Group-D posts. According to the applicants, they have been replaced/~~and~~[↓] would be replaced from the post on which they have been working for long years. They have stated that the action of the respondents in holding interviews for fresh appointment in place of the applicants is illegal and that the applicants should be conferred temporary status giving them benefits of DOP&T OM dated 10.9.93 and further regularisation as Group D employees with consequential benefits.

2. In their counter, the respondents have stated that guidelines issued by DOPT vide their OM dated 10.9.93 will be followed in the case of the applicants. According to them, the respondents are not replacing the services of the applicants by fresh persons. Actually they are filling up 33 Group-D posts in different categories in pursuance of the advertisement ^{in the 'Employment News'} dated 19-25.6.1999 as per the prescribed procedure. Under the relevant instructions two out of every three vacancies in Group-D have to be filled up from amongst the casual workers having temporary status, subject to their fulfilment of the requirements of the recruitment rules. The applicants have filed a rejoinder as well.

3. I have heard the learned counsel of both sides and perused the material available on record and the record produced by the respondents at the time of hearing.

4. Learned counsel of the applicant has contended that whereas applicants have been conferred temporary




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status w.e.f. 6.10.2000 and 129 Group-D posts are vacant, the applicants should be regularised against those posts.

5. Learned counsel of the applicants relies upon Bhagwati Prasad Vs. Delhi State Mineral Development Corporation AIR 1990 SC 371, Pooran Singh & Ors Vs. State of Punjab & Ors SLR 1993 (2) 814 and State of Haryana & Ors. Vs. Piara Singh & Ors. 1992 SCSLJ 456 and contends that the applicants should have been regularised immediately after the issuance of the Scheme in 1993. Even now the applicants can be regularised without any ~~cause~~ ^{delay} h when 129 vacancies are available in Group-D.

6. The learned counsel of the respondents stated that at present 92 vacancies exist and not 129 in Group-D. Under the Scheme called Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993 (hereinafter known as Scheme of 1993). Casual Labourers enjoying temporary status ^{can be regularised} h in accordance with the Recruitment Rules in combination with the instructions issued by the DOPT. The relevant portion of the scheme is as follows:-

"Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age

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relaxation equivalent to the period for which they have worked continuously as casual labourer".

7. According to him, as per Office Orders dated 6.10.2000 and 31.7.97, 84 and 53 casual labourers/daily wagers who had put in a continuous service of at least one year i.e. 240 days in a calendar year and were still on the rolls were conferred temporary status in terms of the Scheme of 1993. The learned counsel stated that the impugned advertisement has been issued to fill up vacancies in Group-D cadre against one out of three vacancies which were to be filled by outsiders. Two out of every three vacancies in Group-D have to be filled as per the provisions of the Scheme of 1993 from amongst the casual labourer/daily wagers status, keeping in view their seniority and instructions on reservation and as per reservation roster.

8. To a specific question whether the applicants were challenging conferral of temporary status upon them w.e.f. 6.10.2000, the learned counsel of the applicants stated that they are not challenging the same as the question of limitation will arise. However, he insisted that the applicants must be accorded regularisation immediately as sufficient number of vacancies in Group-D exist at present.

9. Having regard to the provisions contained in the Scheme of 1993 and Memorandum dated 31.7.97 and 6.10.2000 conferring temporary status on (53+84=137) casual labourers/daily wagers and ^{by respondents} they promised that they ~~respondents~~ would fill up the 2/3rd vacancies in Group-D

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falling in the share of the casual labourers/daily wagers who have been conferred temporary status, I am unable to find fault with the action being taken by the respondents in filling up the balance 1/3rd vacancies from freshers/outside and extending the promise that the applicants having been accorded temporary status would also be considered for regularisation under the Scheme of 1993 as per their seniority and in terms of instructions on reservation and reservation roster. In the facts and circumstances of the case, the respondents are directed to consider the applicants for regularisation as Group-D employees with consequential benefits in terms of Scheme of 1993 and other relevant rules and instructions within a reasonable period of availability of sufficient number of vacancies.

10. The OA is disposed of in the above terms. No costs.

11. Interim order dated 3.5.2000 stands modified under the above directions.

(V.K. Majotra)
Member (A)

CC.