

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No.811/2000

New Delhi: this the 8 day of JUNE, 2001

HON'BLE MR.S.R.ADIKE VICE CHAIRMAN (A) (9)

HON'BLE DR.A.VEDAVALLI, MEMBER (J)

1. Baljit Singh,
S/o Sh. Hukam Chand,
R/o V & PO Ashaudha,
Distt. Rohtak, HR, posted at
Library, DCE & T, New Delhi as
Officiating Clerk.
2. Jai Prakash Jain,
S/o Shri Badan Singh,
R/o C-80, Nehru Vihar,
Timarpur,
New Delhi.
3. Ravinder Singh,
S/o Late Sh. Hareesh Singh,
R/o H.No.2116/4 Chuna Mandi,
paharganj,
New Delhi-55.
4. Jai Kishan,
S/o Shri Ram Mehra,
Vill & PO Mattan,
Distt. Rohtak,
Haryana.
5. Subhash Chand,
S/o Shri Polo Ram,
R/o Gr. No.55(Govt. Colony),
Mohammedpur,
R.K.Puram,
New Delhi.

....Applicants.

(By Advocate: Shri A.K.Bhardwaj)

Versus

1 Union of India,
through
the Secretary,
Ministry of Labour,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi - 01.

2. The Director/Joint Secretary,
Directorate General of Employment &
Training, Ministry of Labour,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi.

3. Sh.H.K.Lal,
C/o The Directorate General,
of Employment of Trg.
Ministry of Labour, Nirman Bhawan,
New Delhi

....Respondents.

(By Advocate: Shri R.N.Singh). (2)

ORDER

S.R. Adige, VC(A):

(10)

Applicants impugn respondents' circular dated 9.1.91 (Annexure-G) and letter dated 18/21.10.99 (Annexure-V to reply). They seek a direction to respondents to redetermine their seniority reckoning their adhoc casual service as Group 'D' employees and thereafter to promote them as LDCs with effect from the date on which any Group 'D' employee whose seniority is found to be below that of applicants, was promoted in LDC.

2. Applicants had earlier filed OA No.2182/94 claiming identical relief. As applicants' representation dated 27.5.94 had not been disposed of by respondents, and they had approached the Tribunal even 6 months prior to the submission of their representation, the Tribunal in its order dated 3.8.99 held the OA to be premature and disposed of the OA with a direction to respondents to dispose of the original representation within 3 months from the date of receipt of order dated 3.8.99.

3. In compliance with the aforesaid order dated 3.8.99 respondents have issued their letter dated 18.10.99 which applicants have challenged in the present OA.

4. As stated above, applicants in the first instance seek redetermination of their seniority as Group 'D' employees with effect from the date of adhoc casual service in that category. For instance in para 4.2 of applicants' OA it is averred that applicant No.2 Jai Prakash Jain was appointed as a casual labourer against a regular Group 'D' post in April, 1977. He was

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appointed to a post in Group 'D' category on adhoc basis on 1.9.80 and was granted regular appointment as a Group 'D' employee on 5.12.83. This prayer implies that Shri Jai Prakash Jain's seniority as a group 'D' employee should be antedated from 5.12.83 to April, 1977 and on that basis his seniority on promotion as LDC should also be redetermined.

5. In the impugned letter dated 18.10.99 it has been categorically stated that there is no provision to count the service rendered as a casual labourer as adhoc worker at the time of regular appointment in group 'D' category for the purpose of determining seniority in Group 'D' category. No rule or instruction was shown to us by applicants' counsel during hearing which permits such counting of casual/adhoc service either. Furthermore, the cause of action of applicant No.2 Shri Jai Prakash Jain arose on 5.12.83. In the impugned letter dated 18.10.99, it has been stated that the seniority list of Group 'D' employees was circulated during 1987 in which applicant's seniority was shown from the date of their regular appointment, but none raised any objection at that time. Thus, in any case applicants' cause of action arose in 1987 and if they had any grievance in regard to their seniority they should have raised it at that point of time.

6. In para 4.10 of the OA it has been contended by applicants that in 1980-81 respondents did not consider eligibility of applicants for their regularisation as Group 'D' employees and instead appointed Shri Sohan Singh and others from outside as regular Group 'D' employees. Respondents in the corresponding para of their reply state that Shri Sohan Singh and others

belong to offices of CLC(C), DLB Chandigarh & Ministry of Labour (Main Secretariat), while applicants belong to DGET, which is a completely separate seniority unit. There is no categorial denial by applicant in her rejoinder to this specific averment of respondents in their reply. Thus, this argument does not advance applicants' claim.

7. In the absence of any rule and instructions which mandate respondents to count the cause/ adhoc service put in by applicants in Group 'D' category at the time of their regular appointment as Group 'D' employees for purpose of determining their seniority in Group 'D' category, and in view of the fact that applicants' cause of action arose in 1987, if not earlier, and the OA is squarely hit by limitation, we see no good reasons to interfere in the same and the ruling in Juneja's case 1994(27)ATC 273 cited by applicants' counsel does not advance applicants' claim in the particular facts and circumstances of this case. The OA is therefore dismissed. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER (J)

Antohgi
(S.R. ADIGE)
VICE CHAIRMAN (A).

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