

In the Central Administrative Tribunal
Principal Bench, New Delhi.

Regn. Nos.:

Date: 30.1.1992.

1. OA-2089/89

Shri Gir Raj Singh Applicant

2. OA-2104/89

Shri Lachhman Dass Applicant

3. OA-2112/89

Shri Shyam Sunder Applicant

Versus

Union of India & Ors. Respondents

For the Applicants Shri S.C. Juneja, Counsel

For the Respondents Shri N.S. Mehta, Counsel

CORAM: Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Mr. B.N. Dhoundiyal, 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
Mr. P.K. Kartha, Vice-Chairman)

As common questions of law are involved in these applications, it is proposed to deal with them in a common judgement. The applicants have worked as casual labourers in the office of the respondents for various periods and they are aggrieved by the termination of their services w.e.f. 27.12.1988. They are claiming regularisation of their services in Group 'D' posts. They have alleged that

the respondents have terminated their services, while retaining their juniors and outsiders in preference to them.

2. The admitted factual position is that the applicants in these applications, have not worked for 240 days in each of the two years preceding the termination of their services. The applicant in OA-2089/89 claims that he has worked for 480 days, whereas the respondents state that he has worked only for 251 days. The applicant in OA-2104/89 states that he has worked for 500 days, whereas the respondents have stated that he has worked only for 309 days. The applicant in OA-2112/89 claims that he has worked for 500 days, whereas the respondents have stated that he has worked for only 274 days.

3. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. The respondents have sought to justify the termination of the services of the applicants on the ground that the work for which they had been engaged, is over, that there is no regular vacancy, and that they do not fulfil the qualifications prescribed by the respondents for regularising casual labourers as set out in the O.M. dated 26.10.1984 issued by the Department of Personnel & Training. They have also stated that they have followed the principle of 'last come, first go'

while resorting to termination of the services of the applicants.

4. The applicants have contended that one, Shri Vinod Kumar, had been retained in service at the time of termination of their services and that he was their junior. This has been denied by the respondents.

5. The applicants have filed MP-2323/90, MP-2397/90, and MP-2325/90 in which they have contended that the respondents have recruited 5 persons as casual labourers between the months of February and May, 1990. Their names are, Mam Chand, Parma Nand, Diwan Chand, Atre and Jaikrat Singh. While the respondents do not deny having engaged the above mentioned persons after the termination of the services of the applicants, their contention is that the persons so recruited are ex-servicemen and it was felt preferable on considerations of security of costly computer equipment to engage them.

6. The respondents have nowhere stated in their counter-affidavit that the ~~work~~ conduct and performance of the applicants were not up to the mark. That being so, engagement of fresh recruits as casual labourers after terminating their services, is violative of Articles 14 and 16 of the Constitution. The fact that the newly recruited persons belong to the category of ex-Servicemen, will not, to our mind, make any difference in the legal position.

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7. In the light of the foregoing, we hold that the termination of the services of the three applicants before us is not legally sustainable. We, therefore, set aside and quash the impugned orders of termination dated 28.12.88. The respondents are directed to reinstate them as casual labourers within a period of one month from the date of receipt of this order. In the facts and circumstances of the case, we do not direct payment of back wages to them. The applicants shall also be continued in service so long as they need the services of casual labourers and so long as they retain the services of the persons engaged by them after passing the impugned order of termination in respect of the applicants.

8. There will be no order as to costs.

B. N. Dheundiyal
(B. N. Dheundiyal)
Administrative Member

Done
30/11/92
(P. K. Kartha)
Vice-Chairman (Judl.)