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In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. DA-2333/89

Date: 29.5.1990.

Shri Gopal Singh & Anr. Applicants

Versus

Union of India through
Secretary, Ministry of
Posts & Another Respondents

For the Applicants Shri B.S. Gupta, Advocate

For the Respondents Shri M.L. Verma, Advocate

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri D.K. Chakravorty, 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? *No*

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

The applicants, who have worked as Daily-wage Postmen, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for directing the respondents to regularise their services as Postmen as per the judgement and order dated 27.10.1987 in Daily-rated Casual Labour employed under P & T Department Vs. Union of India & Others, A.I.R. 1987 S.C. 2342, and that they be directed to make payment of the same salary to the applicants as is being paid to regular Postmen. They have also sought for ^{all} consequential benefits after regularisation of their services.

2. The applicants had filed an application in the Supreme Court seeking the same reliefs. On 23.10.1989, the Supreme Court passed an order whereby the petitioners were permitted to withdraw the application with liberty to approach this Tribunal.

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3. The facts of the case in brief are as follows. Both the applicants have registered their names in the Employment Exchange and both of them were sponsored by the Employment Exchange for appearing in the examination for recruitment of outside candidates to the Cadre of Postmen held on 21.4.1984. They appeared in the examination and were selected as Daily-wage Postmen. Applicant No.1 joined duty on 15.3.1984 and applicant No.2, on 22.2.1984. Since then, they have worked in the said post continuously but have not so far been regularised against the post of Postman. That is one of their grievances.

4. Another grievance of the applicants is that the emoluments paid to them are less than those of regular Postmen.

5. The contention of the applicants is that as per the judgement of the Supreme Court dated 27.10.1987 mentioned above, they are entitled to be regularised against the posts which they are holding as Casual Labourers for more than five years. Because of their non-regularisation, they have become age-barred. They are not being paid House Rent Allowance, City Compensatory Allowance and Working Allowance although they are performing the same duties as regular Postmen.

6. The respondents have stated in their counter-affidavit that the applicants are still working against short-term, leave and absentee vacancies within the sanctioned strength of Indraprastha Head Post Office. They are being paid on daily-wage basis. They were allowed to appear in the examination for recruitment to Group 'D' posts held on

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23.7.1989 along with daily-wage Packers. Both of them secured pass marks but they could not be brought on the Select List for want of vacancies. They have further stated that a new policy to regularise the services of the Casual Labourers under the purview of the judgement of the Supreme Court, mentioned above, is likely to be finalised soon, and that the cases of the applicants would also be considered again thereafter.

7. The respondents have submitted that the services of daily-wagers are regularised in Group 'D' posts like Packer, Chowkidar, Farash, Mali, Waterman, etc. The claim of the applicants will be considered against these posts as and when any vacancy arises in the future according to the old policy, or under the new policy after it is finalised. They are not eligible for consideration for the post of Postman as per the recruitment rules notified on 6.7.1989. According to them, applicant No.2 does not fulfil the condition of educational qualification upto Matriculation standard which has been prescribed under the Recruitment Rules notified on 6.7.1989 for the post of Postman.

8. We have gone through the records of the case carefully and have heard the learned counsel for both the parties.

9. The learned counsel for the applicants has relied upon numerous rulings in support of his contentions and we have duly considered them.

*Cases relied upon by the learned counsel for the applicants:

A.I.R. 1987 S.C. 2342; A.I.R. 1984 S.C. 1291; A.T.J. 1989(1) Vol.6, p.422; A.T.J. 1988 (1) Vol. 4, p.408; 1990 (1) S.C.C. p.361; S.L.J. 1990 (1) 531; Decision of this Tribunal dated 1.9.1989 in J.C. Bhutani Vs. Union of India & Others(OA-84/88)

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10. In the case of Daily-rated Casual Labour employed under the P. & T. Department, decided by the Supreme Court on 27.10.1987, the respondents have been directed to prepare a scheme on a rational basis for absorbing, as far as possible, the Casual Labourers who have been continuously working for more than one year in the Posts & Telegraphs Department. The Supreme Court also directed the respondents to pay to the workmen, who are employed as Casual Labourers belonging to the several categories of employees in the Posts & Telegraphs Department, at the rates equivalent to the minimum pay in the pay-scales of the regularly employed workers in the corresponding cadres, but without any increments. They would be be entitled to the corresponding Dearness Allowance and Additional Dearness Allowance, if any, payable thereon. They would also be entitled to other benefits which were being enjoyed by them.

11. In the subsequent decision of the Supreme Court in Jagjit Mazdoor Union Vs. Mahanagar Telephone Nigam Ltd., 1989 (2) SCALE 1455, the Supreme Court has given further directions in regard to the regularisation and grant of other benefits to the Casual Labourers.

12. In view of the above, the respondents are under duty to consider the applicants for regularisation and absorption under the scheme to be prepared by them. Such regularisation and absorption should be to the posts for which the applicants possess the requisite qualifications and length of service as Casual Labourers. They should also be given age relaxation as they were within the age limits at the time of their initial appointment as Casual Labourers.


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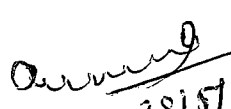
13. The respondents have stated that there is no proposal to disengage the services of the applicants as Daily-wage Postmen and, therefore, we do not propose to pass any specific orders in this regard.

14. In the light of the above, we direct that the respondents shall consider the cases of the applicants for regularisation and absorption in posts of the appropriate category in accordance with the scheme to be prepared by them pursuant to the judgement of the Supreme Court in the case of Daily-rated Casual Labour employed under P & T Department, A.I.R. 1987 S.C. 2342. While considering their regularisation and absorption, the respondents shall relax the age-limits in their cases as they were within the age-limit at the time of their initial engagement as Daily-wage Postmen. The respondents are also directed to pay to the applicants wages and other benefits as per the directions of the Supreme Court in the aforesaid case of Daily-rated Casual Labour employed under the P & T Department and the subsequent decision of the Supreme Court in Jagrit Mazdoor Union's case, mentioned above.

15. The application is disposed of with the aforesaid directions.

The parties will bear their own costs.


(D.K. Chakravorty)
Administrative Member
29/5/1990


(P.K. Kartha)
Vice-Chairman (Judl.)
29/5/90