

(18)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.2586/89

Date of Decision: 18.09.1992

Surgyan Singh & Ors.
Shri B.B. Srivastava

Applicants
Counsel for the applicants.

Vs.

Union of India through
Secretary, Ministry of
Surface Transport

Shri P.P. Khurana

Respondents
Counsel for the respondents.

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)
The Hon'ble Mr. B.N. Dhoundiyal, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporters or not? *Yes*

J U D G E M E N T

(of the Bench delivered by
Hon'ble Member Shri B.N. Dhoundiyal)

Three casual workers of Ministry of Surface Transport have filed this OA, against the verbal order, terminating their services from 31st December, 1989. The version of the applicants is as follows:

Applicant No.1 Shri Surgyan Singh and applicant No.2 Shri Satyapal Singh had been engaged on 8.10.86 and applicant No.3 Shri Gokul Narain on 15.4.88. They were paid daily wages of Rs.23.25 per day, against

bn

...2...

the prevailing rate of Rs.34.60 per day, allowed to 17 other unskilled casual workers in the Ministry. They were neither given an appointment letter nor extensions of their service from time to time were made in a formal manner. They have claimed that as they have worked for long periods ranging from 1½ years in the case of applicant No.3 to three years in the case of other two applicants, they should be given the benefit of regularisation under the existing instructions contained in the Ministry of Personnel and Training OM dated 7.6.88. They have prayed that the respondents be directed not to terminate their services and adjust them against the regular posts in the Ministry of Surface Transport. Meanwhile, they should be paid at the rate of Rs.34.60 per day from the date from which, other 17 casual workers are being paid at this rate.

2. An interim order was passed on 29.12.89, directing the respondents not to terminate the services of the applicants. This has been continued from time to time till date.

lv

3. The respondents have contended that appointment orders are issued only to persons appointed on regular basis against continuous vacancies. The applicants were appointed in the Ministry, on instructions from the then Minister for Surface Transport and their candidatures were not sponsored by the Employment Exchange, which is the normal source of recruitment, prescribed in the Recruitment Rules for making appointment on regular basis in the grade of Peon. Though the instructions issued by the DP&T do prescribe regularisation of casual workers who have worked for 206 days in each calendar year for 2 years, this facility is available only to those who have been sponsored through Employment Exchange. A review was carried out in compliance with the Department of Personnel and Training OM, dated 7.6.88, and a proposal for appointment of 17 senior most daily wagers, performing the duties of regular nature was mooted for grant of wages at the rate of Rs.33.50 per day. Regularisation of these 17 workers is also under consideration. Due to non-availability of sufficient work load to keep

Dr

the applicants gainfully deployed, verbal instructions were issued on 29.12.89, informing the applicants that their services were no longer required from the following day.

4. We have heard the arguments addressed at the Bar and have perused the pleadings and the documents placed on record. The case of similarly situated casual workers of Ministry of Surface Transport was considered by this Bench in OA.2587/89, decided on 25.10.91 (Shri Yogender Singh and Others Vs. Union of India). As in the present case, those casual workers were also engaged on the instructions of the then Minister for Surface Transport and had worked for more than 240 days. A reference was made to the decision of this Tribunal in Durga Prasad Tiwari Vs. Union of India, 1990 (3) SLJ, CAT, 94, wherein, it was held that there is no force in the contention that only those casual workers who have been sponsored by the Employment Exchange are entitled to be considered for regularisation. It was observed that casual labourers who have worked for two to four years, should be

by

considered for regularisation of their services irrespective of whether their names have been sponsored by the Employment Exchange, or not. It was further observed that regularisation of the casual labourers, would depend upon existence of regular Group 'D' posts in the Ministry/Department concerned. For this purpose, a unit of the Ministry/Department should not be taken in isolation and the Ministry/Department should be taken as a single unit. These observations were reiterated in the subsequent decision of Raj Kamal and Others Vs. Union of India, 1990(2) SLJ, 169, wherein it was laid down that such casual workers who cannot be absorbed due to lack of vacancies and who have worked for 206 days in each of the 2 years, would be entitled to the absorption in the future vacancies. Those who have worked for lesser periods, should also be considered for absorption, but they will be entitled to wages for the periods they actually worked as Casual Labourers. No fresh recruitments of casual labourers against regular vacancies shall normally be resorted to, before
Bv

absorbing the surplus casual labourers. It was specifically mentioned that:-

"the fact that some of them may not have been sponsored by the Employment Exchange should not stand in the way of their absorption."

5. Following the ratio of the Judgement, in the aforementioned case of Yogendra Singh & Ors. Vs. Union of India, the application is disposed of, with similar order and directions,^{as}/indicated below:-

(i) The impugned oral order of termination of services of the applicants w.e.f. 31.12.89 is hereby set aside and quashed. The respondents are directed to reinstate the applicants in service as casual labourers in the regular vacancies in the post of Group 'D' arising in the Ministry of Surface Transport and its offices wherever they are located. In case, there is no available vacancy in the Ministry of Surface Transport, they should be adjusted against Group 'D' vacancies in other Ministries/Departments, attached subordinate offices for appointment in accordance

by

with the scheme directed to be prepared, as mentioned in para-21 of the Judgement of this Tribunal, in Raj Kamal Vs. Union of India, 1990 (2) CAT 169. The respondents are directed not to induct fresh recruits as casual labourers through Employment Exchange or otherwise overlooking the preferential claims of the applicant. Emoluments to be given to them till their regularisation, should be strictly in accordance with the orders and instructions issued by the Department of Personnel and Training. After their regularisation, they shall be paid the same pay and allowances as regular employees belonging to Group 'D' category.

(ii) In the facts and circumstances of the case, we do not direct payment of back wages to the applicants.

(iii) The respondents shall comply with the above directions preferably, within a period of three months from the date of receipt of this order.

(iv) There will be no order as to costs.

B. N. Dhoundiyal
(B.N. DHOUNDIYAL) 18/9/92
MEMBER(A)

P. K. Kartha
(P.K. KARTHA) 18/9/92
VICE CHAIRMAN(J)