

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 2587/89 with 199  
C.C.P. ~~FA~~ No. 14/90

DATE OF DECISION 25.10.91

Shri Yogender Singh & Others	Petitioner Applicants
Shri B.B. Srivastava	Advocate for the Petitioner(s)
Versus	
Union of India through Secy., Miny. of Surface Transport & Ors.	Respondents
Shri P.P. Khurana	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The 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*
3. Whether their Lordships wish to see the fair copy of the Judgement? */m*
4. Whether it needs to be circulated to other Benches of the Tribunal? */m*

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

The four applicants before us were appointed as Casual Labourers in the office of the respondents during the years 1987-88. Applicant No.3 was engaged on 1.12.1987, applicant No.2 on 6.6.1988 and applicant Nos.1 and 4 on 21.7.1988. Their services were terminated by oral order on 29.12.1989. The admitted factual position is that they were engaged on the instructions of the then Minister for Surface Transport. It is also a fact that they have worked for more than 240 days as Casual Labourers. The respondents have not stated in their counter-affidavit that the services

rendered by them were not up-to-the mark.

2. The grounds given by the respondents in support of their action in terminating the services of the applicants are that their services are no longer needed, that they do not fulfil the conditions of engagement through the Employment Exchange, and that they were engaged at the behest of the Minister for Surface Transport.

3. The applicants have stated that the respondents have retained their juniors while terminating their services. This has been denied by the respondents in their counter-affidavit. The applicants have not mentioned the names and other particulars of the juniors retained by the respondents.

4. We have carefully gone through the records of the case and have considered the rival contentions. The learned counsel for the applicants relied upon the Office Memoranda dated 7.6.1988 and 21.2.1990 issued by the Department of Personnel relating to the recruitment of Casual Labourers and persons engaged on daily wages. By the Office Memorandum dated 7.6.1988, ~~the~~ instructions had been issued to all the administrative ministries/departments to undertake a review appointment of casual labourers in their offices and to adjust all eligible casual labourers against regular posts to the extent such regular posts are justified. The rest of the casual workers whose services

were not considered absolutely necessary, were to be dispensed with. The Ministries/Departments were given six months' time to conduct the review. The applicants before us were continued even after the expiry of the period of six months.

5. In Durga Prasad Tewari Vs. Union of India, 1990 (3) SLJ, CAT, 94, this Tribunal had held that there is no force in the contention of the respondents that only those casual workers who have been sponsored by the Employment Exchange are entitled to be considered for regularisation. It was observed<sup>that</sup> casual labourers who have worked for 2 to 4 years, as in the instant case, should be considered for regularisation of their services irrespective of whether their names have been sponsored by the employment exchange (vide U.O.I. & Others Vs. Hargopal & Others, 1987 (3) SCC 308; Swami Nath Sharma & Others Vs. U.O.I., AIR 1988 (1) CAT 64 and T.S. Sadashivajah & Others Vs. Secretary to Govt. of India & Others, AIR 1989 (1) CAT 172). It was further observed in the aforesaid judgement that regularisation of casual labourers would depend upon the existence of regular Group 'D' posts in the Ministry/Department concerned. For this purpose, a unit of the Ministry/Department (as the office of the Controller of Accounts in this case), ~~xxxx~~ should not be taken in isolation and the Ministry/Deptt. should be taken as a single unit.

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6. In the subsequent decision of Raj Kamal & Others Vs. Union of India, 1990(2) SLJ, 169, the aforesaid observations were reiterated and the respondents were directed to prepare a rational scheme with a view to regularising casual labourers who have worked for more than 240 days. The following observations made by the Tribunal in Raj Kamal's case are pertinent:-

".....Since the Department of Personnel and Training is monitoring the implementation of the instructions issued vide O.M. dated 7.6.1988, the Union of India through that Department, should undertake to prepare a suitable scheme for absorbing such casual labourers in various ministries/departments and subordinate and attached offices other than the Ministry of Railways and Ministry of Communications. Their absorption should be on the basis of the total number of days worked by the persons concerned. Those who have worked for 240 days/206 days in the case of six days/five days week, respectively), in each of the two years prior to 7.6.1988 will have priority over the others in regard to absorption. They would also be entitled to their absorption in the existing or future vacancies. Those who have worked for lesser periods, should also be considered for absorption, but they will be entitled to wages for the period they actually worked as casual labourers. No fresh engagement of casual labourers against regular vacancies shall normally be resorted to before absorbing the surplus casual labourers. The fact that some of them may not have been sponsored by the Employment Exchange, should not stand in the way of their absorption. Similarly, they should not be considered ineligible for absorption if at the time of their initial engagement, they were within the prescribed age-limit."

7. There is nothing on record to indicate that the appointments of the applicants as casual labourers were co-terminus with that of the tenure of the Minister for

Surface Transport, as alleged by the respondents. Even assuming that that was the position, the applicants before us cannot be thrown out of employment on the ground that the Minister had demitted office.

8. In the light of the foregoing, the application is disposed of with the following orders and directions:-

- (i) The impugned oral orders of termination of services of the applicants with effect from 29.12.1989 are hereby set aside and quashed. The respondents are directed to reinstate the applicants as casual labourers in the regular vacancies in the posts of Group 'D' arising in the Ministry of Surface Transport and its offices wherever they are located and consider their regularisation in such vacancies. In case, no vacancies exist in the Ministry of Surface Transport and their offices, they should be adjusted against vacancies of Group 'D' staff in other ministries/departments/attached/subordinate offices for appointment in accordance 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

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induct fresh recruits as casual labourers through Employment Exchange or otherwise, overlooking the preferential claims of the applicants. The 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 & 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. The respondents shall comply with the above directions within a period of three months from the date of communication of this order.

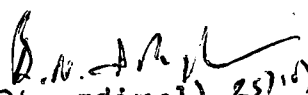
(iii) There will be no order as to costs.

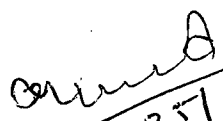
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The applicants have alleged that their services were terminated by the respondents w.e.f. 31.12.1989, whereas the respondents have contended that their services were terminated w.e.f. 29.12.1989. In other words, their services had been

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terminated before the receipt of the copy of the interim order passed by the Tribunal on 30.12.1989. In our opinion, disputed questions of fact cannot be gone into while adjudicating upon <sup>a</sup>C.C.P. In view of this, the C.C.P. is disposed of without passing any orders thereon. The notice of contempt is also discharged. Let a copy of this order be placed in both the case files.

  
(B.N. Dhoundiyal) 25/10/91  
Administrative Member

  
25/10/91  
(P.K. Kartha)  
Vice-Chairman(Judl.)