

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2223/88
 Tax No. 390/89
 391/89
 420/89

198

DATE OF DECISION May 31, 1990.

Harbir Singh & Anr.	Petitioner
Shri S.C. Luthra, counsel for the applicants.	
Rajbir Singh & Ors.	
Yogender Singh & Ors.	Advocate for the Petitioner(s)
Ballam Singh & Ors.	
S/Shri Hardev Singh & Anil Gupta, Sr. Advocates with Shri Ashok Aggarwal, Adv.	Versus
Union of India & Ors.	Respondents
Shri M.M. Sudan	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. T.S. Oberoi, Member (J)

The Hon'ble Mr. I.K. Rasgotra, Member (A)

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? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

MGIPRRND-12 CAT/86-3-12-86-15,000

I.K. Rasgotra
 (I.K. RASGOTRA)
 Member (A)

T.S. Oberoi
 (T.S. OBEROI)
 Member (J)

JUDGMENT

(delivered by Hon'ble Shri T.S. Oberoi, Member).

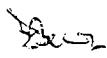
By this order, we deal with O.A. No. 390/89, filed by Shri Rajbir Singh and 15 other applicants, O.A. No. 391/89, moved by Shri Yogender Singh and 14 other applicants, O.A. No. 420/89 filed by Shri Ballam Singh and his other two colleagues and O.A. No. 2223/88 filed by Shri Harbir Singh and Shri A.N. Mishra. It would be convenient to dispose of these applications by a common order having regard to the fact that the issues involved in these O.A.s are similar and the relief claimed in O.A.s No. 390/89, 391/89 and 420/89 is the same while the applicants in O.A. No. 2223/88 seek to quash the appointments of the applicants in the other O.A.s.

2. we may first deal with the grounds urged and the relief claimed by the applicants in O.A. No. 390/89. The sixteen applicants in this O.A. were initially appointed as Village Level Workers between the years 1979 and 1981. Their names were sponsored by the Employment Exchange, following receipt of a letter to this effect from the respondents, for appointment to the posts of Horticulture Assistant/Plant Protection Assistant/Agriculture Inspector/Demonstrator/Seed Development Assistant/Technical Assistant, in the pre-revised pay scale of Rs. 425-700. The applicants were selected for appointment in the above posts by the Selection Committee, constituted for the purpose, by the respondents, on 17.7.1984. In addition to the applicants, who were already working as Village Level Workers with the respondents, 15 more persons, who are applicants in O.A. No. 391/89, and were also sponsored by the Employment Exchange, were similarly offered appointment. While these 15 persons accepted the offer of appointment on daily rate basis and were so appointed between 1.8.1984 to 9.8.1984, the applicants in O.A. No. 390/89 did not accept the offer on daily rate basis, because they were already working on a regular basis, albeit in lower posts. The fifteen

applicants in O.A. No. 391/89 were appointed ~~on an ad hoc basis~~ in the post of Horticulture Assistant/Plant Protection Assistant etc. vide order dated 8.5.1987 in the regular pay scale of Rs. 1400-2300. The applicants, in OA 390/8 taking the cue, made a representation to the respondents for appointment in the pay scale of Rs. 1400-2300. The respondents, conceding their request, appointed them in the aforesaid posts and pay scale by an order dated 27.1.1988 on purely ad hoc basis upto 30.11.1988 while one of the applicants, Shri Raj Pal Singh, was so appointed vide order dated 2.3.1988. The applicants have averred that they are working continuously in the aforesaid posts from the date of their initial appointment. The applicant's case is that the respondents have threatened them to terminate their services with effect from 1.3.1989 and in order to achieve this end, the respondents proposed to hold interview on 6.3.1989 after getting the names of the prospective candidates sponsored by the Employment Exchange. The applicants were also required to appear in the viva voce but they have refused to do so. The applicants have assailed the action of the respondents to hold interviews afresh to fill up these ^{main} posts on the following/grounds. They assert that they were duly selected by the Staff Selection Board on 17.7.1984 and since then, they have been working in these posts without any break. Therefore, they should be deemed to be permanent employees in the office of the respondents. The applicants allege that the respondents have violated the principles of natural justice because they have not given the applicants an opportunity of being heard before taking the impugned action. To support their case, the applicants have also relied on the judgments of the Hon'ble Supreme Court, High Courts and this Tribunal in certain cases. Relying on the

judgments of the Supreme Court in Rattan Lal & Ors. vs. State of Haryana, 1986(1) LLJ 23 S.C. and AIR Narender Chadha & Ors. Vs. UOI, /1986 SC 638, the applicants have contended that the contemplated action which the respondents proposed to take, is violative of the law laid down in these judgments. While admitting the application on 27.2.1989, a Bench of this Tribunal directed the respondents to maintain status quo and not to terminate the services of the applicants. This interim order has been continued on the directions of this Tribunal from time to time, with the result that the applicants are still continuing to occupy these posts.

3. The facts leading to the filing of O.A. No. 391/89 & Ors. by Shri Yogender Singh may be briefly noted. The respondents sent a requisition to the Employment Exchange for sponsoring the names of suitable persons for filling up the posts of Horticulture Assistant etc. Accordingly, the names of the applicants were sent by the Employment Exchange. They were selected on 17.7.1984 by a Selection Committee constituted by the respondents and they were employed in the aforesaid posts on dates between 18.84 and 9.8.84. Initially, the applicants were engaged on daily rate basis and they allege that the respondents denied them the regular pay scale of Rs.1400-2300 although vacancies in this grade were available and they were appointed against permanent posts. On 8.5.1987, the respondents issued an order stating that the Development Commissioner was pleased to appoint the applicants to the posts of Horticulture Assistant etc. in the pay scale of Rs. 1400-2300 with effect from 1.5.1987 on ad hoc basis and they would not be entitled for regular appointment and seniority in these posts.

 The applicants approached the Labour Court under Section

33C(2) of the Industrial Disputes Act, 1947 claiming difference of salary between the wages paid to them on daily rate basis and the salary in the pay scale of Rs. 1400-2300. The Labour Court, Delhi held that the applicants were entitled to salary in the regular pay scale from the date of their initial appointment and directed the respondents to pay to the applicants a sum of Rs. 4,42,574.20 p as difference of wages on daily rate basis and salary in regular pay scale. They moved the Industrial Tribunal seeking regularisation in the service. Vide award dated 26.11.1988, the Industrial Tribunal held that the applicants were entitled to be regularised in the posts in which they were appointed from the initial date thereof.

According to the applicants, the award of the Industrial Tribunal has become final and they are deemed to have been regularised from the date of their initial appointment. They allege that the respondents became annoyed with the applicants for approaching the Labour Court and Industrial Tribunal and out of vendetta, the respondents have threatened to terminate their services and to replace them by new hands. The respondents called fresh names from the Employment Exchange for filling these posts on regular basis and proposed to hold an interview for the same on 6.3.1989. The applicants were also called for the interview. Instead of appearing in the viva voce, proposed to be conducted by the respondents for filling up these posts, the applicants filed the present application under Section 19 of the Administrative Tribunals Act, 1985, on 21.2.1989. They assert that by virtue of continuous service from the date of initial appointment, the applicants have acquired permanent status and, as such, the contemplated action of the respondents is arbitrary, illegal and bad in law. Raising the same grounds and pressing into

service the judgments of the Hon'ble Supreme Court, the High Courts and this Tribunal in various cases, as in O.A. No. 390/89, adverted to above, the applicants have prayed for setting aside the impugned order by which interviews were held for filling up the posts in question. A Bench of this Tribunal at the Principal Bench ^{interim} passed an identical order as in the aforesaid O.A. which has been continued from time to time.

4. Coming to O.A. No. 420/89, filed by Shri Ballam Singh and two other persons, it may be stated that the facts of the case, the grounds urged and the reliefs sought in the present application are identical to those in the other two O.A.s, which have been discussed hereinabove. The applicants were initially appointed as Supervisor (Horticulture) on various dates between 13.8.1984 and 27.5.1988 and they were paid emoluments on daily rate basis. ^{Applicants Ballam Singh & Daya Ram} However, from 20.5.1988, applicants have been paid salary in the regular pay scale and from that date, they have been continuously working in their respective posts. Applicant No. 2, in this case, Shri Arvind Kumar Gangwar was so appointed by an order dated 27.5.1988. The applicants in this O.A. are also aggrieved with the impugned order dated 15.12.1988 by which the respondents had initiated action to hold an interview ^{on 6.3.1989} for filling up these posts after obtaining names from the Employment Exchange for the purpose. They claim that they should be deemed to have been regularly appointed in their respective posts in view of the orders of the Labour Court and the award of the Industrial Tribunal in the cases filed by the applicants in O.A. No. 391/89. The applicants in this O.A. have called in aid the dicta of the Hon'ble Supreme Court, the High Courts and this Tribunal which have been relied upon by the applicants in the

other two O.As, viz. OA No. 390/89 and OA No. 391/89. The applicants in this O.A. have prayed for setting aside the impugned order dated 1.3.1989, terming the same as illegal, invalid, unconstitutional, restraining the respondents from holding the interview which was scheduled to be held on 6.3.1989 and directing the respondents to treat the applicants as permanent employees. This Tribunal, while admitting the application on 28.2.1989, passed similar interim order as in other two O.As.

5. The respondents have filed identical counters in the aforesaid three applications, stoutly opposing the prayer of the applicants. It is averred by them that the appointing authority for appointment to the posts of Horticulture Assistant etc. is the Development Commissioner. However, the selection or promotion to these posts is to be made on the recommendations of the Staff Selection Board to be constituted as per the instructions issued by the Government from time to time. On 14.12.1983, the Deputy Director (Horticulture) sent a letter to the Employment Exchange for sending names of 200 persons so as to make selection of 15 suitable candidates to man these posts. The Employment Exchange sponsored the names of 200 persons and this list contained the names of certain persons who were already working as Village Level Workers in the office of the respondents. The candidates were called for interview by the Deputy Director (Horticulture). At this stage, the respondents realised that the Deputy Director (Horticulture) was not competent to hold the interview and a proper requisition, in accordance with the Rules, was not sent to the Employment Exchange, as such, no selection and appointments could be made. Accordingly, 18 persons were engaged on daily rate basis. The respondents have contended that before engaging these persons, an option was obtained from them for being employed as casual workers. However, in view of repeated

representations made by these employees, the respondents decided to appoint them on ad hoc basis in the regular pay scale of Rs. 1400-2300 till regular appointments were made, numbering 16 vide order dated 8.5.1987. The Village Level Workers, whose names were sponsored by the Employment Exchange, approached the Department for similar appointment and taking a sympathetic view of the matter, they were appointed on ad hoc basis. The respondents have stated in the counter that Village Level Workers are not in the feeder line for promotion to the posts in question. However, the 16 VLWs were appointed, on ad hoc basis, in view of their names being sponsored by the Employment Exchange. The respondents initiated action to fill up the posts on regular basis in accordance with the Recruitment Rules and the prescribed procedure. As such, a requisition was sent to the Employment Exchange for sponsoring names for appointment to these posts in the direct recruitment quota for the 19 posts. The Employment Exchange sponsored the names of 118 persons for consideration. A Staff Selection Board was constituted by the Development Commissioner to hold interviews on 6th, 7th and 8th March, 1989, for selection of suitable persons. The applicants, who have been working on ad-hoc basis, though their names were not sponsored this time, by the Employment Exchange, were also asked to take part in the interview and they were even allowed age-relaxation. However, the applicants refused to participate in the interview and have moved this Tribunal challenging the action of the respondents. The respondents have emphasised that the applicants were initially appointed on daily rate basis but on account of their repeated and persistent representations, taking a lenient view, the respondents appointed them in regular pay scale, though on ad hoc basis. They have denied that they have taken revengeful action against the applicants. On the other hand, the respondents have taken a lenient view in calling the ad-hoc appointees for interview so as to

regularise their appointment in the posts already held by them, even though their names were not sponsored by the Employment Exchange. They have asserted that it is wrong to suggest that the applicants have been working on permanent basis which is clear from their appointment letter. It is stated by them that the applicants cannot claim any benefit of regular appointment or payment of arrears as they are not governed under the Minimum Wages Act, 1948. They have denied that the applicants were selected by a Staff Selection Board on 17.7.1984, or any violation of the provisions of Articles 14,16 and 21 of the Constitution has been committed by them. Their action is lawful and not arbitrary, discriminatory or unreasonable. The respondents have prayed for vacation of the interim order passed by the Tribunal.

6. In the backdrop of the contentions of the parties in support of their respective cases, as discussed briefly hereinabove, we may now succinctly analyse the pleadings of the parties in O.A. No. 2223/88, filed by Shri Harbir Singh and one more applicant. The herein applicants/have impleaded all the applicants in the aforesaid three O.As, viz. O.A. No. 390/89, O.A. No. 391/89 and O.A. No. 420/89. The applicants are working as Village Level Workers in the office of the respondents since September, 1979 in the pay scale of Rs. 975-1540. Their next promotion is to the grade of Village Level Worker Senior grade/group level worker in the pay scale of Rs.1200-2040. A VLW Senior Grade/Group Level Worker becomes entitled to promotion to the post of Horticulture Assistant, Plant Protection Assistant, Technical Assistant, Seed Development Assistant and Demonstrator etc. in the pay scale of Rs. 1400-2300 and these posts are to be filled 50 per cent by promotion and 50 per cent by direct recruitment and for filling the promotional posts, the

persons working as Agriculture Assistants/Garden Overseer/Group Level Worker/Extension Officers/
fall in the zone of consideration. Agriculture (CD) Farm Managers (Jr.) etc. The applicants in this O.A. have challenged the competence of respondent No. 3 to requisition the names from the Employment Exchange or to appoint any person in the scale of Rs. 1400-2300. The Employment Exchange sponsored the names of 16 Village Level Workers in addition to outsiders. 15 persons were initially appointed as Supervisors on daily rate basis which did not include the V.L.Ws against the posts which, the applicants allege, did not exist. Subsequently, the 16 V.L.Ws were also appointed in the pay scale of Rs. 1400-2300 on ad hoc basis, upto 30.11.1988. On 20.5.1988, two more outsiders were similarly appointed. According to the applicants, all the thirty-three posts were filled in utter disregard of the relevant rules and by a person who was not competent to make such appointments. The main complaint of the applicants in this O.A. is that by the illegal appointments of 33 persons on ad-hoc basis, their promotion avenues have been blocked and their service career stands ruined. It is contended by them that all the V.L.Ws, who were appointed in the pay scale of Rs. 1400-2300 on ad hoc basis, are junior to them in the combined seniority list of VLWs and they do not possess the requisite experience prescribed under the Rules. Though the Recruitment Rules provide for appointment to these posts 50 % each by direct recruitment and promotion, out of 57 filled posts, only 17 are held by departmental candidates, the applicants assert. The applicants have prayed for quashing the appointments of the respondents who are all applicants in the other O.As, which are subject matter of this judgment, and for restraining the respondents- Department from regularising their services. They

further seek a direction from this Tribunal to the respondents to scrupulously follow the Recruitment Rules for filling up the posts in question.

7. The Government as well as private respondents have opposed the contentions of the applicants. The Government-respondents have stated that five years regular service in the feeder grade of VLWS Senior Grade etc. is an essential requirement for promotion to the posts of Horticulture Assistants etc. Promotion to these posts, being Class III ex-cadre posts, abides by the selection made by the Staff Selection Commission or Departmental Promotion Committee constituted as per instructions issued from time to time. The respondents have admitted that the applicants in this O.A. are senior to the respondents in the grade of Village Level Workers and they have been appointed against the posts reserved for promotion quota. But this has been done on the basis of their names being sponsored by the Employment Exchange in response to a requisition made by the Government-respondents. The official respondents have mentioned in the counter that in 1987, when the private respondents were offered appointment on daily rate basis, eligible candidates in the feeder grade for promotion against promotion quota were not available and, as such, Village Level Workers in the pay scale of Rs. 975-1540 could not be promoted directly to the posts of Horticulture Assistants etc. carrying a pay scale of Rs. 1400-2300. In other words, a Village Level Worker will first be entitled to promotion as a Village Level Worker Grade II and only then would he be entitled to promotion as Horticulture Assistant etc. The official-respondents have candidly admitted that action was initiated to regularise 15 ad hoc appointees but later, the move was dropped as it was found that they had not appeared for interview before a duly constituted Staff Selection Board. According to the Recruitment Rules, the applicants in this

O.A. are not eligible for appointment to the grade of Rs. 1400-2300, as they have not been appointed even to the feeder grade carrying a pay scale of Rs.1200-2040. It is stated by the official respondents that there are 38 posts of Horticulture Assistants out of which 19 are to be filled by direct recruitment and the rest by promotion. Following interviews held by the respondents to fill up these posts on a regular basis, a panel has been prepared and the appointments will be made as and when the interim stay, ordered by this Tribunal, is vacated. The official respondents have stated that they have no objection to the grant of reliefs sought by the applicants.

8. The private respondents have strongly opposed the prayer sought by the applicants in O.A. 2223/1988. They have contended that the application is not maintainable as the applicants have no locus standi to file the present application, and they are not similarly situated *via-a-vis* the respondents. They have stressed that they were selected by duly constituted Selection Committee in 1984 for appointment in the grade of Rs. 1400-2300 after their names were sponsored by the Employment Exchange in response to a requisition sent by the official respondents. The respondents have challenged the maintainability of the O.A. on the ground of limitation as the cause of action, if any, arose in 1984 when they were selected and appointed, whereas the application was filed in November, 1988. The respondents have averred that they cannot be held responsible for any irregularity committed by the official respondents. They have denied that they have been appointed against non-existent posts, as alleged by the applicants. Though they were paid wages on daily rate basis from 1984 to 1987 but later on, they were paid the difference in salary in compliance with the judgment of the Labour Court. In sum and substance, the respondents have strongly opposed the prayers made in this O.A.

9. A perusal of the sum and substance of the four O.As, in the preceding paragraphs, would show that, while the applicants in O.A. No. 391/89, who were direct recruits, sponsored by the Employment Exchange, on a requisition by the Deputy Director (Horticulture), base their claim on various factors, such as their names having been duly sponsored by the Employment Exchange; their long and satisfactory service, ever since their employment as Horticulture Assistants, etc. in August, 1984 onwards, till date; the regularisation of their service, as such, by the Labour Court/Industrial Tribunal, vide an award to this effect, etc., the applicants in O.A. No. 390/89 (16 VLWs) and three applicants in O.A. No. 420/89 press their claim on the analogy of claim of applicants in O.A. No. 391/89, with effect from the dates they were appointed on ad hoc basis, on the grounds of equal pay for equal work and also for possessing equal qualifications. On the other hand, applicants in O.A. No. 2223/88, who are still serving as V.L.Ws, in the lower grade of Rs. 975-1540, lament that their interests are being usurped by back-door entry of applicants in O.As 391/89 and 420/89, resulting in their stagnation and also those of others of their category.

10. A further look into the claims and counter claims of various applicants in these O.As, also indicates that applicants in O.As No. 391/89 and 420/89 did not possess the experience in agricultural extension work/Agriculture Department Vegetable breeding or Research Centre, field of Plant Protection, as was the requirement in case of direct recruits, as per the Recruitment Rules. The applicants in O.A. No. 2223/88 also allege that the applicants in O.A. No. 390/89 (16 VLWs) were junior to them, as per seniority list at pages 19-21 of the Paper book in O.A. No. 2223/88, and yet they have sneaked into the higher posts of Horticulture Assistants etc., though, at the same

time it is true that their names were duly sponsored by the Employment Exchange, while those of the applicants in O.A. No. 2223/88 were not so sponsored, presumably the latter having not got their names registered with the Employment Exchange, for higher posts. Besides, neither the applicants in OA No. 390/89 nor those in OA No. 2223/88 fall into the feeder categories for promotion to the posts of Horticulture Assistants etc., which include VLWs in the senior grade of Rs. 1200-2040 with five years of regular service, as both still happen to be in the junior grade of VLWs. These and many other intricate questions raised in various O.A.s under consideration, need to be gone into, in accordance with the Recruitment Rules, keeping in view the factual position in case of each applicant, in each O.A. This, in fact, was being taken up by the respondents before a Selection Board, which had called all the applicants in these O.A.s, besides some more candidates, whose names were called for, from the Employment Exchange, for the second time, on 5.12.1988, when stay was granted by this Tribunal in various O.A.s, on requests from the applicants, in this regard.

11. Connected with the above proposition involved regarding reconciling the various conflicting/opposing interests involved, there is the existence of an award by a Labour Court/Industrial Tribunal, in favour of applicants in OA No. 391/89. According to the respondents, the same is under challenge in the High Court of Delhi, while the applicants in para. 6 (F) on pages 7-8 of the Rejoinder filed in OA No. 391/89, assert as under:-

"....the order of the labour court can only be challenged in the High Court and until and unless the same is set aside by the High Court, the same will be binding between the parties. It is wrong to say that the management have challenged the said order in the High Court by way of writ petition. However, it is submitted that the respondents have moved to the High Court against one of the applicants, Sh. Som Veer Arya. So far as the rest of the applicants are concerned, the management have not even filed writ petitions in the High Court. Even in case of Sh. Som Veer Arya, the High Court have not so far issued notice in their writ petition. It is also submitted that in case of Sh. Som Veer Arya, the respondents have already complied with the orders of the Labour Court and in case of others, the High Court have already directed the respondents to comply with the orders of the Labour Court by 6th June, 1989".

Yours

In the above circumstances, we do not think it necessary to further dwell upon this aspect of the case.

12. Certain rulings have been referred to by the applicants. In Rattan Lal and others vs. State of Haryana and others,⁽¹⁾ a case of teachers appointed on ad hoc basis at the commencement of academic year, and terminating their services before next summer vacation or earlier and re-appointing them on ad hoc basis at the commencement of next academic year, it was held that it results in their exploitation and uncertainty in their career.

In another case, Narender Chadha & Ors. vs. Union of India, the effect of such appointments for very long spells, gives rise to a claim by the concerned, for their regularisation in such posts.

In yet another ruling, Lala Ram Katiyar and others vs. State of Uttar Pradesh & Ors.⁽²⁾, it was held that ad hoc employees form a distinct class by itself, and any preferential treatment given to them for regularisation of services does not amount to violation of Articles 14 and 16 of the Constitution. While these and some other rulings referred to by the applicants in the O.A.S which, however, are not being specifically dilated upon, as they are not squarely applicable nor, with respect, are considered germane to the decision of the present case, but, at best, provide broader guidelines, which may have to be kept in view, while considering and deciding the present cases before us.

(1) 1985(4) SCC 43

(2) AIR 1986 SC 638.

(3) 1986(1) SLR Vol. 41 (Allahabad HC) p. 105

Vans

13. Before coming towards the last phase of the case, we may say a few words about the limitation aspect, urged against the applicants in O.A. No. 2223/88. It will suffice to say that in view of the facts that this O.A. had since been admitted, the grievance being of continuing in nature and the cause of action seems to have actually arisen, when the respondents decided to regularise the applicants in O.A. No. 390/89 and O.A. No. 391/89, we are of the view that this aspect is not of any significance or consequence against the applicants in O.A. No. 2223/88, and we hold accordingly.

14. Now taking up the various O.A.s before us, we feel that applicants in O.A. No. 390/89 and O.A. No. 2223/88 form one category of recruitment by promotion, as they happen to be all serving VLWS, still in the lower grade of Rs. 975-1540 with the only difference that the names of applicants in O.A. No. 390/89 were sponsored by the Employment Exchange concerned, when a requisition for the posts of Horticulture Assistants etc. (in the scale of Rs. 1400-2300) was sent by respondent No. 2, whereas names of applicants in O.A. No. 2223/88 were not so sponsored, as they had not presumably got themselves registered for higher posts. They also claim to be senior to applicants in O.A. No. 390/89 which, of course, is a factor which has to be given due consideration, together with the position that the applicants in O.A. No. 390/89 have worked, though on ad hoc basis, on the higher posts, of Horticulture Assistants etc. from 27.1.1988 (except in case of one with effect from 2.3.1988) till date, and have, by now, acquired the requisite experience of working on a higher posts, described above. All these aspects have to be duly

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evaluated, properly scrutinised and suitably balanced, before a decision is arrived at with respect to rival claims, which, we are of the view, can best be thrashed out by the competent authority (Development Commissioner, Delhi Administration) by appointing a duly authorised Selection Board, as per rules.

15. Further, it may be seen that the applicants in O.A. No. 391/89 and O.A. No. 420/89, can be treated to be of one category of direct recruits, having been appointed initially on daily rate basis, and later given appointment on ad hoc basis, in the posts of Horticulture Assistants etc. in the grade of Rs. 1400-2300, with effect from varying dates, applicable in their respective cases. Likewise, the applicants in other two O.As i.e. O.A. No. 390/89 and O.A. No. 2223/88 from one category, being in-service candidates as VLWs.

16. Apportioning the 38 vacant posts of Horticulture Assistants etc. in the grade of Rs. 1400-2300 equally among (a) applicants in O.A. No. 391/89 and O.A. No. 420/89, and (b) applicants in O.A. No. 390/89 and O.A. No. 2223/88, which bring them squarely to 50% of each category, we direct the respondents (particularly the Development Commissioner, Delhi Administration) as under:-

- i) To hold a fresh viva voce test for all the applicants in the above mentioned four O.As, on a date to be notified by the respondents, after giving adequate time and opportunity to the applicants, for making preparations therefor.
- ii) Relaxation in age, if necessary, will be granted to the applicants, or such of them as may require.
- iii) Since the applicants in O.As. No. 390/89, 391/89 and 420/89 have been continuously working against the posts in question for considerable length of time, though on ad hoc basis, the respondents shall, as far as possible,

adjust all the applicants from the date of their working/promotion, as the case may be, in the scale of Rs. 1400-2300. Due regard shall be given to the observance of the relevant Recruitment Rules, so as to mitigate the grievances of all concerned.

iv) If the applicants are found upto the mark in the interview so held by the respondents, their past service would reckon for the purpose of all service benefits, such as pay, seniority, leave and pension etc.

The four O.As, viz. O.A. Nos. 2223/88, 390/89, 391/89 and 420/89 are disposed of in the light of the aforesaid orders. There will be no order as to costs.


(I.K. Rasgotra)

Member (A)


31.5.90
(T.S. Oberoi)
Member (J)

May 31, 1990.