

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 730/89
T.A. No.

199

DATE OF DECISION 24.7.1991

Shri Rood Singh and 20 Others

Petitioner Applicants

Shri R.L. Sethi

Advocate for the Petitioner(s) Applicants

Versus

Secy., Miny. of Defence & Ors.

Respondent

Shri M.L. Verma

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

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

The applicants have worked as casual labourers

(Mazdoors) in the office of the respondents for periods ranging from 6-9 years. They were engaged on various dates ranging from December, 1979 to November, 1984.

They have alleged that they were prevented from coming on duty beyond 3.3.1989 by oral orders. This is, however, ~~being~~ denied by the respondents. Their grievance is that they have not been regularised in service and paid salary and allowances equal to that of regular employees. They have relied upon the decision of the Supreme Court in

Surinder Singh & Others Vs. Union of India decided on 17.1.1986 and the instructions issued by the Government of India, Department of Personnel & Training, on 7.6.1988. They have alleged that despite their long service, they have been disengaged and fresh junior Mazdoors have replaced them.

2. The respondents have stated in their counter-affidavit that the applicants are only casual labourers and not Group 'D' employees. Their employment is not of regular nature, but they are taken to do work on the basis of the workload on 'day-to-day' basis. They have stated that casual labourers who have been working for a longer duration are given preference over fresh labourers. According to them, no vacancies of regular labourers exist in their office.

3. The respondents have further stated that a Board of Officers have considered the workload and recommended only 20 permanent Mazdoors, whereas 27 permanent Mazdoors were then working. The surplus Mazdoors would be transferred to other places.

4. We have gone through the records of the case carefully and have considered the rival contentions. The respondents have not denied the fact that the

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applicants have worked on 'day-to-day' basis for periods ranging from 6-9 years though with broken periods.' As there are no vacancies in their offices, the applicants have not been regularised against Group 'D' posts.

5. The applicants, who are working as casual labourers, have no right to regularisation if no vacancies are available (vide Satya Narayan Sharma & Others Vs. National Mineral Development Corporation & Others, 1990 (2) SCALE 169). The respondents have stated that they have not recruited any fresh Mazdoors after terminating the services of the applicants. They have also stated that the applicants are at liberty to work elsewhere when there is no work in the office of the respondents and most of them do so. In the harvest season, they go back to their villages and are not available for work. At that time, if casual labourers are required, fresh labourers are taken, so that the work did not suffer.

6. On the basis of the material on record, the only order that can be passed in the instant case is that the respondents shall prepare a roster of the Mazdoors/casual labourers who have hitherto worked with them. The engagement of Mazdoors should be made from such a roster,

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preference being given to the Mazdoors on the basis of their length of service. If and when any permanent vacancy in Group 'D' category arises, the Mazdoors who appear on the roster, should be considered in preference to outsiders, provided they fulfil the qualifications other than age. They should be given relaxation in age to the extent of the service rendered by them as Mazdoors.

7. The application is disposed of on the above lines. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal)
Administrative Member

P.K. Kartha
24/7/91
(P.K. Kartha)
Vice-Chairman(Judl.)