

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.1290/88

New Delhi this the 12th Day of November, 1993.

The Hon'ble Mr. N.V. Krishnan, Vice-Chairman(A)
The Hon'ble Mr. B.S. Hegde, Member (J)

1. Dev Karan Sharma
S/o Shri Tuki Ram Sharma,
R/o H.No.111, Kavita Colony,
Nangloi, Delhi-110041.
2. Yogender Kumar
S/o Shri Seeta Ram Kaushik,
R/o 17/69, Than Singh Nagar,
New Rohtak Road, New Delhi.
3. Krishan Pal Singh
S/o Shri Mangat,
Vill & P.O.Kherka, Distt. Meerut, U.P.
4. Somesh Kumar, son of
Shri Gian Dutt,
R/o H.No.A/72, Kabita Colony,
Nanglori, Delhi-110041.
5. Jai Bhagwan, S/o Shri Munshi Ram,
Vill & P.O. Nilo thi, Delhi.
6. Jagpal Singh, S/o Shri Kanha Ram,
Vill & P.O. Pehladpur, Kadoli, Haryana.
7. Vishwa Nath, S/ Shri Lottan Singh,
R/o RZ-E-44, West Sagarpur,
Nangal Cantt, Delhi-110046.
8. Chet Ram, S/o Shri Hari Singh,
H.No.839, Najafgarh, Delhi.
9. Bal Kishan, S/o Shri Karan Singh,
Vill Lampur, Delhi-110040

...Applicants

(By Advocate: None)

Versus

1. Delhi Administration through its
Chief Administrator, Lt. Governor,
Raj Niwas, Delhi.
2. Executive Engineer, Irrigation
and Flood Control Department,
Municipal Corporation,
I.S.B.T. Delhi.
3. Assistant Engineer, KEIS Department,
I & F Department, I.S.B.T, Delhi.

...Respondents

(By Advocate: None)

O R D E R (ORAL)

(Hon'ble Mr. N.V. Krishnan)

This O.A. has been filed by D.K. Sharma and
8 others. Their grievance is that a settlement was

reached on 6.11.1986 between the representatives of the applicants and the respondents for the regularisation of the applicants and for other benefits, which was followed by further settlement dated 20.4.1986 which has still not been implemented.

2. The brief facts giving rise to this O.A. are as follows. It is stated that the applicant No.1 was appointed as N.T.S. while applicants No.2-9 were appointed on ad hoc basis by the second and third respondents (Executive Engineer, KEIS Department) as Beldars. It is claimed that applicants were in continuous service for more than 240 days and were eligible for being regularised or made permanent under Section 25-B(2) of the Industrial Disputes Act, 1947 - Act for short.

3. As their demands were not met, a charter of demands was submitted to respondents No.2 and 3 and a strike notice was served on them. When this situation developed, the matter was discussed before the Labour Commissioner, Deputy Labour Commissioner/Conciliation Officer and Assistant Labour Commissioner and, after an exhaustive discussion, a settlement was reached which was recorded on 6.11.1986, a copy of which is at Annexure-A. In the present case the applicants are concerned with paragraphs 2 and 8 of the terms of settlement which read as under:-

"2. In so far as the demand No.2 is concerned the management is preparing a seniority list so that the complete data is preparing a available with them. The regularisation will be done in the phased manner as per the seniority list and subject to the availability of posts. The management shall try to complete seniority list at the earliest and the representative of the workmen will also provide all possible assistance in this process. A copy of the tentative seniority list will be provided to the workers representative.

8. The management will declare the remaining eligible workmen Quasi permanent/permanent."

4. It is alleged that the respondents did not show any keenness to implement the settlement and, therefore the applicants issued a call for a strike, which was observed by all the applicants and other employees from 2.2.1988. On this occasion also, the respondents agreed to regularise the services of the applicants vide settlement dated 20.4.1988 with the representatives of the applicants. However, the applicants have not produced any document to show the contents of this alleged settlement. Even then, the respondents were in no mood to implement the settlement and the applicants were allegedly harassed. Apprehending termination, some of the employees in the same department are stated to have filed OA-1409/87 which is stated to be pending in this Tribunal. The applicants ^{may be} pray that the same relief be given to the applicants as given to the applicants in OA-1409/87. A further reminder was issued to the respondents on 9.6.1988 for regularisation but to no effect.

5. It is in these circumstances that the applicants have filed this O.A. claiming the following reliefs:-

"(i) That the Respondents may kindly be directed to make regular/permanent to the applicants from the date of 6.11.1986.

(ii) That the other benefits which the applicants are entitled by way of settlement dated 6.11.1986 and otherwise may be given to the applicant.

(iii) The Respondents may kindly be directed to grant equal pay for equal work as the employees of CPWD are getting.

(iv) That the salary for the day of 1.2.1988 may also be given to the applicants."

6. The respondents have filed a reply stating that it is true that the settlement (Annexure-A) was reached but they deny that they have been inactive in implementing it. In so far as the paragraph-2 of the settlement is

concerned, it is stated that the respondents have already prepared three seniority lists on 16.6.1987, 18.9.1987 and 24.6.1988 in respect of muster roll Beldars as on 31.3.1979, 31.3.1985 and April, 1988. The settlement visualises that the daily wage employees may be regularised in a phased manner as per the seniority list, subject to availability of posts. It is stated that the department has decided that the persons who entered in the department on or before 31.12.1980 and have a continuous working of 240 days will be taken on W/C strength, subject to availability of funds from the Finance Department. On this basis the applicant at srl. No.9 who entered the department on 1.8.1980 will be covered in the first phase of regularisation. They have also stated that other 8 applicants will also be regularised in a similar manner on the above basis. It is, therefore, denied that the respondents have not taken any action in the matter.

7. The respondents have also denied that there was any further settlement on 20.4.88 as alleged in paragraph-6.6 of the O.A. It is stated that there was a strike which was called off by the employees on their own.

8. The respondents conclude by stating that the applicants will be made regular or permanent, according to the final seniority list of Muster Roll employees in a phased manner as and when posts and additional funds are made available. Therefore, they have prayed that the O.A. should be dismissed.

9. We have perused the ~~counter~~ ^{pleading} on record. We notice that the proceedings started with a settlement made with the help of the Deputy Labour Commissioner/Conciliation Officer Delhi. In other words, proceedings have already been initiated under the provisions of the Industrial Disputes Act, 1947. If the applicants have any grievance

that the settlement reached with the employer, i.e., respondents, under the provisions of that Act have not been implemented, the said Act provides for the necessary relief. It was, therefore, necessary for the applicants to resort to the alternative remedy provided under that Act in this regard. In this view of the matter it would not be proper for us to interfere in this O.A., as, prayed for, keeping in view the pronouncement of a larger Bench of this Tribunal in A. Padmavalley & Others v. C.P.W.D. & Telecom (Full Bench Judgements of C.A.T. Vol. II p.334.

10. In any case, we find that so far as the settlement is concerned, the Department has been taking steps to implement it and they have not repudiated that settlement.

11. We find that the prayers at serial No.(iii) regarding 'equal pay for equal work' in comparison with the C.P.W.D. is totally unconnected with the main relief sought in this O.A. Besides, no foundation has been laid in respect of this relief. The same is true of the relief claimed at serial No.(iv) relating to the salary of 1.2.1988.

12. In the circumstances, we do not find any merit in the O.A. and it is dismissed with no order as to costs.


(B.S. HEGDE)
MEMBER(J)


(N.V. KRISHNAN)
VICE-CHAIRMAN

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