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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A. No. 520/88
T.A. No.

199

DATE OF DECISION 31/5/1991,

<u>Shri Chander Pal Etc.</u>	Petitioner
<u>Shri V. Sekhar, Counsel</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India & Ors.</u>	Respondent
<u>Shri P.S. Mahendru,</u>	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?
- 2. To be referred to the Reporter or not?
- 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?

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

(20)

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No. 520/88

DATE OF DECISION:

SHRI CHANDER PAL ETC.

APPLICANTS

VERSUS

UNION OF INDIA & ORS

RESPONDENTS

CORAM:

HON'BLE MR. T.S. OBEROI, MEMBER(J)

HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT

SHRI V. SEKHAR, COUNSEL

FOR THE RESPONDENTS

SHRI P.S. MAHENDRU, COUNSEL

(JUDGEMENT OF THE BENCH DELIVERED BY

HON'BLE MR. I.K. RASGOTRA, MEMBER(A)

The issue raised for adjudication in this OA filed by Shri Chander Pal and 13 others under Section 19 of the Administrative Tribunals Act, 1985, is that although they have worked for a number of years as casual labourers in the Construction Division under the Chief Engineer, Northern Railway, their services have not been regularised resulting in their deprivation of security of service and other benefits available to regular employees.

2. The relevant facts of the case are that the applicants have been working for about 10-12 years in Gang No. 20 between Karnal and Wazida Jattan for laying new rail lines as also for doubling the existing lines. On completion of the doubling work between Karnal and Panipat in 1984, the applicants, who had their headquarters at Karnal pleaded for their regularisation and continuance at Karnal. The ground for the request made to the respondents is that normally whenever a doubling project is completed and handed over to the open line, the

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concerned construction staff is also transferred to the open line for maintenance purpose and thereafter they are also regularised. The applicants have pointed out that Gangs No.17, 18 and 19 have been treated accordingly. Gang No.20 has however, been discriminated as they have been directed to proceed to Neloheri doubling project. They made a representation to the Executive Engineer (Construction Special), Karnal, which has not been responded to so far. The applicants allege that this was being done to deprive them of the status of permanency with headquarters at Karnal. Another allegation made by the applicant is that they are not being paid the same salary as a regular employee, even though their nature of work and the actual work is similar to that of a regular employee. By way of relief the applicants have prayed that:

- (a) the applicants be made permanent with headquarters at Karnal;
- (b) that no fresh recruitment be made at Karnal in the Maintenance Division without first absorbing the applicants;
- (c) they should not be dispossessed of the quarters where they are living with their families.

The applicant had also prayed for interim relief which was granted after hearing both the parties on 5.5.1988 as under:

"We have heard the learned counsel for both the parties on the question of interim relief. Since residential accommodation of the appropriate quality is not being provided at Nilo Kheri and only tentage is provided and the applicants have been in service for the last 11 years, we direct that provisionally

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applicant should be given duty passes for travelling from Karnal to the place of work and back, subject to the outcome of this application. In case it is found on the final decision of the application that they are not entitled to these facilities, recovery of the cost involved in the provision of duty passes also will be subject to the outcome of this application. This disposes of interim relief."

Further some of the members of the Gang were transferred vide order dated 25.2.1989 (page 51 of the paper book), Tilak Bridge, Northern Railway, in connection with the opening of 3rd and 4th line between shakur Basti and Ghaziabad. The implementation of this order was, however, stayed vide order dated 6.3.1989. In the meantime, a connected matter in OA 981/87 was disposed of by the tribunal. The learned counsel for the applicant had therefore prayed that this OA may also be finally disposed of accordingly. On 23.8.1990 the learned counsel for the applicant was directed to clarify the difference in the pay of construction casual labourers and regular labourers working on the maintenance jobs on the next date of hearing on 29.8.1990. This, however, has not so far been substantiated by the learned counsel for the applicants.

3. The respondents in their written statement have raised some preliminary objections e.g. that the Respondent No.3 is an independent constitutional body and that its decision on the basis of eligibility and suitability cannot be challenged under the law. They have also pleaded that the application is barred by limitation

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under Section 20 and 21 of the Administrative Tribunals Act, 1985. No material, however, has been placed before us to substantiate the preliminary objections. Another objection is that the matter falls within the jurisdiction of the Chandigarh Bench and, therefore, on jurisdiction alone, the case needs to be dismissed. On merits the respondents submit that the applicants have been granted temporary status, given all privileges and are being paid equal pay as admissible to regular employees of the similar category. They, however, submit that the applicant cannot be made permanent till they pass the screening test after the sanction of permanent posts is received from the competent authority. At present there are no permanent posts under Respondent No.2 and Respondent No.3 and, therefore, they are appointed against the workcharged posts for construction of new line between Subzi Mandi and Ambala Division. They further affirm that the applicants have already been granted temporary status. The sanction for permanent posts of gangmen for maintenance of the track completed from Panipat-Karnal-Behainikhurd have been applied for but the sanction has not yet been received. After the sanction is received the gangman will be screened according to their seniority and regularised. The respondents, however, contest the claim of the applicants that their headquarters at the relevant time was at Karnal, although the project work was in and around Karnal station. They were issued passes to enable them to report to headquarters at Karnal but the headquarters of the applicants is fixed according to the requirement of the construction. They further deny the existence of any practice that whenever work of doubling or new line is commenced the district headquarter is deemed

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to be the headquarters of the workers. It is also denied that whenever they complete the doubling or new line, the construction labour is transferred to the open-line division. In fact all labourers working in the said division, casual, temporary or permanent, are assigned to that work.

The respondents affirm that in accordance with the orders of the Hon'ble Supreme Court, Casual Labourers after completion of one year service in the construction project are given temporary status as per the decision in the case of Shri Inderpal Vs. UOI.

The respondents in their MP No.1403/90 filed on 31.5.1990 have further submitted that identical cases of casual labourers working on the construction projects, in OA No.218/88; 522/88 and 981/87 have already been decided.

Shri P.S. Mahendru, learned counsel for the respondents further submitted that the facts as well as the reliefs claimed in the present OA are similar to those which are contained in the aforesaid applications decided by the Tribunal in the said judgement dated 22nd September, 1989. Similar submission was also made by Shri V. Sekhar, learned counsel for the applicants on 18.10.1989.

We have carefully gone through the judgement delivered in OA No.218/88; 522/88 and 981/87 on 22.9.1989. We find that the case of the applicants in the present OA is identical to the applicants in the said OAs, particularly in OA Nos. 218/88 & 522/88. Briefly, grievances relate to their non-regularisation, shifting their headquarters from Karnal where they have been working and denial of equal pay for equal work and

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other conditions of service applicable to regular employees. Another claim which they have made is that with the completion of the project they should be regularised in the maintenance unit on the open line.

Keeping in view the prayer of both the counsel and having regard to the facts of the case we dispose of the OA with the following orders and directions:

(i) the respondents shall take necessary action to sanction permanent posts for maintenance work of new track/doubling completed ~~at~~ ⁱⁿ Panipat-Karnal-Bhainikurd section as expeditiously as possible. After these posts are created they shall consider the applicants for appointments against the said posts in accordance with the relevant rules, including the requirement of their passing the screening test. The appointments so ~~of~~ ^{of} made shall also be on the basis of their respective seniority in each category for which they may be found suitable for appointment. For this purpose the seniority list of employees who have attained temporary status in the construction division shall be drawn up expeditiously, if already not done.

(ii) Such of the applicants who may not be permanently absorbed as regular employees in the maintenance division with headquarters at Karnal and who are rendered surplus shall be assigned work if they report to the construction division Nilo Kheri Section.

(iii) the respondents have maintained and the applicants have not controverted the statement that the applicants are being paid salary and wages in accordance with the principle of equal pay for equal work. We, therefore, issue no directions in this regard.

(iv) The interim orders earlier passed and referred to in paragraph 2 above are hereby vacated.

There shall be no orders as to costs.

IK Rasgotra
(I.K. Rasgotra)

Member (A)

T.S. Oberoi 3.5.91
(T.S. Oberoi)

Member (J)