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Central Administrative Tribunal
Principal Bench, New Delhi.

CP-117/94 in
OA-1290/89

New Delhi this the 7th Day of October, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman (J)

Hon'ble Mr. B.N. Dhoundiyal, Member (A)

1. Sh. Suresh Kumar,
S/o Sh. Ramji Lal,
R/o House No. D-45,
Mathura Road,
New Delhi.
2. Smt. Dulari,
W/o Sh. Dalip,
R/o House No. 20,
Bazar Lane, Jangpura,
Bhogal, New Delhi.
3. Smt. Parwati,
W/o Sh. Dindayal,
R/o CC 3 T Camp Kicharipur,
New Delhi.
4. Smt. Santro,
W/o Sh. Ram Chander,
R/o House No. B/34,
Gali No. 4, Block-B,
Bhayanpura,
New Delhi.
5. Smt. Sarpati,
W/o Sh. Hari Ram,
R/o B/215, Hari Nagar,
Ashram, New Delhi.
6. Smt. Rani,
W/o Sh. Anthony,
R/o 15, Tambu Nagar,
New Delhi.
7. Smt. Kamlesh,
W/o Sh. Kishan,
R/o 19/25 Trilokpuri,
New Delhi.
8. Sh. Ramjad,
S/o Sh. Vikanu Ram,
R/o 36/11, Trilokpuri,
New Delhi.

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9. Pan Kumari,
W/o. Babu Lal,
R/o. T. Camp C/2,
Kicharipur,
New Delhi.
10. Bhagwan Dass,
S/o. Surjan Singh,
R/o. Village and PO Sarhaul,
District Gurgaon,
Haryana.
11. Yashpal,
S/o. Satya Prakash,
R/o. House No. 37/9,
Gali Zamindar,
Pahari Dhiraj, Delhi.
12. Lallu s/o Jagan Nath,
R/o. House No. T-86, Sarai,
Kalakhan,
New Delhi.
13. Jagdish Chand,
S/o. Ram Narayan,
R/o. House No. 4/1626, Mahavir Block,
Bhola Nath Nagar,
Shahadara, Delhi.
14. Hari Ram s/o Lal Chand,
R/o. C-10 Sardar Baste,
New Delhi.
15. Sant Ram s/o Ram Raj Tiwari,
R/o. Kunti Mandir, Old Fort,
Mathura Road,
New Delhi.
16. Rakesh Kumar
S/o. Ram Swrup,
R/o. House No. B-35, Krishna Vihar,
New Delhi.
17. Surender Singh, s/o Jagar Singh,
R/o. Village Nawada,
P.O. Dhundshala, Teh. Hapur,
District Gazia-bad, U.P.
18. Ram Prasad s/o Bankuram,
R/o. No. Jhuggi No. 18, Near Delhi
High Court Shershah Road,
New Delhi.
19. Vijay Pal, s/o Mukandilal,
R/o. House No. D-45, Sector,
Ambedkar Nagar, Khanpur,
New Delhi.

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20. Satya Prabha w/o Kanhaya,
LA/190 Dilshad Garden, Shahdara,
Delhi.
21. Om Prakash s/o Bankelal,
R/o. House No. 11/5,
Dakshinpuri,
New Delhi.
22. Babulal,
S/o. Prahalad,
R/o. D II/319 Pandara Road,
New Delhi.
23. Jay Kishan s/o Manphool,
R/o House No. 118,
D.D.A. Janta Flats, Himayenpur,
New Delhi.
24. Hardayal s/o Teerai,
R/o. Jhuggi No. 11,
Nagla Maikshi,
New Delhi.
25. Kunwar Bai w/o Hardayal,
R/o. Jhuggi No. 11,
Nagla Maikshi,
New Delhi.
26. Anguri w/o Devi Singh,
R/o. House No. 215, Hari Nagar Ashram,
New Delhi.
27. Ranbir s/o Rattan Singh,
R/o. House No. 18,
Shahapurjat,
New Delhi.
28. Jwala Prasad, s/o Durga Prasad,
R/o. Jhuggi No. 348, Anna Nagar,
Tilak Bridge,
New Delhi.
29. Makhan Lal,
S/o. Laxman,
R/o. T. Camp C/21, Kicharipur,
New Delhi.
30. Jashoda w/o Mangal Singh,
House No. 20/E1,
Trilokpuri,
New Delhi.
31. Vishal s/o Satiya Singh,
R/o. House No. 9/348, Block I,
Sewa Nagar,
New Delhi.

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32. Sukhdeen s/o Lakshmi Ram,
R/o. C-22/T camp,
New Delhi.
 33. Talewar s/o Triloki Singh,
R/o. 325/2, Mandawali, Fazalpur,
New Delhi.
 34. Rajesh Kumar s/o Rishipal,
R/o. 25/254, Trilokpuri,
New Delhi.
 35. Om Prakash s/o Chandi Ram,
R/o. Village and P.O. Panhera Khurd,
Distt. Faridabad,
Haryana.
 36. Bishan Singh
S/o. Birender Singh
R/o. 1441, D.D.A. Janta flats,
Nand Nagari,
New Delhi.
 37. Subhash Chand Chauhan,
S/o. Sunder Singh Chauhan,
R/o. 4/27, Lodhi Road, New Delhi.
- Applicants 1 to 37 are employed at :
- Circle Branch,
Archaeological Survey of India,
Purana Kila, Mathura Road,
New Delhi.
38. Asharfi w/o Rakbir Singh
R/o. 12 Market Lane,
Jangpura,
New Delhi.
 39. Phoola Devi,
W/o. Lallu,
R/o. T-86 Sarai Kalekhan,
New Delhi.
 40. Sunit Dutt s/o Hari Singh,
R/o. Village and P.O. Sarhaul,
District Gurgaon,
Haryana.
 41. Babulal s/o Naresh,
R/o. Village Laddosarai,
New Delhi.
 42. Rohtas Singh s/o Rajja Ram,
R/o. 70 Boer Sarai,
New Delhi.

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43. Phool Babu s/o Chandrika Prasad,
R/o. 140-A Shahpur Jat,
New Delhi.
44. Nathu Ram, S/o. Birkhey Ram,
R/o village Baij Khera,
District Gurgaon,
Haryana.
45. Chandrabir s/o Lal Singh,
R/o. House No. 1, Gali No. 3,
Shiv Vihar,
Karawal Nagar,
New Delhi.
46. Babu Ram,
s/o Bhagwati Prasad,
R/o. 1456 Kotla Mubarakpur,
New Delhi.
47. Kishan Pal s/o Prahalad,
R/o. Village & P.O. Alawalpur,
Tehsil Palwal,
District Faridabad,
Haryana.
48. Maya w/o Budh Prakash,
r/o 3 Krishna Nagar,
village Ghondli,
New Delhi.
49. Tej Pal, S/o Rohtas Singh,
R/o. 460 vill. Tuglahabad,
New Delhi.
50. Sumitra Devi w/o Ram Chand,
R/o. 366, Ext. No. 30, Trilokpuri,
New Delhi.
51. Ishwari Singh,
S/o. Mool Chand,
R/o. 310 Daultabad,
Village Bhajhghera,
District Gurgaon,
Haryana.

Applicants 38 to 51 are employed at :

Circle Branch,
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Humayun Tomb, Nizammudin,
Mathura Road,
New Delhi.

52. Kamla Devi, w/o Dharambir,
R/o Harijan Basti, Sarai Kala Khan,
New Delhi.

53. Asha Ram s/o Leela Ram,
r/o 1920 Babu Park, Kotla,
Mubarakpur,
New Delhi.
54. Kishan s/o Balaji,
R/o. C/o Harichand Master, Vill.
Madangir,
New Delhi.
55. Sher Bahadur s/o Mangru,
R/o. c/o Om Prakash, A-22,
Shiv Park, Khanpur,
New Delhi.
56. Paras Nath Singh,
S/o Chattar Pal Singh,
r/o Kunti Mandir,
Purana Kila, Mathura Road,
New Delhi.

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Circle Branch,
Archaeological Survey of India,
Safdarjung Tomb,
New Delhi.

57. Mohan Lal s/o Hansaraj,
r/o House No. 37, Krishna Nagar,
Village Gohandli,
New Delhi.

Employed at :

Circle Branch,
Archaeological Survey of India,
Tomb, New Delhi.

58. Pholeye w/o Rattan Singh,
r/o Shahpur Jat,
New Delhi.

Employed at:

Haus Khas Tomb,
Haus Khas,
New Delhi.

59. Roop Chand, s/o Toota Ram,
r/o Village and PO Badhola,
Tehsil Palwal, Dist. Faridabad,
Haryana.

Employed at :

Circle Branch,
Archaeological Survey of India,
Firozshah Kotla, Bhadurshah Zafar Mgr.,
New Delhi.

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60. Sardar Singh,
S/o Sh. Jai Lal,
R/o Village Mohammedpur,
P.O. Shahbad,
Najaf Garh,
New Delhi.

Employed at :

Circle Branch,
Archaeological Survey of India,
Quotab Minar,
New Delhi.

Applicants

(through Shri D.K. Garg, advocate)

versus

Smt. Archana Molik,
Director General,
Archaeological Survey of India,
Department of Culture,
Janpath, New Delhi.

Respondent

(through Shri M.M. Sudan, advocate)

ORDER
delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

This contempt petition has been filed by 60 casual workers of the Department of Archaeology alleging that the respondents have failed to take effective steps for implementation of the judgement and order of this Tribunal dated 5.2.1993.

The applicants had alleged that though they had been working as casual workers for a long time, their services had not been regularised. The respondents failed to file any counter-affidavit despite due notice.

The Tribunal had referred to the following observations of the Supreme Court in case of State

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of Haryana Vs. Piara Singh & Ors. (JT 1992(5)179).

"If a casual labourer is continued for a fairly long spell - say two or three years - a presumption may arise that there is regular need for his services. In such a situation, it becomes obligatory for the concerned authority to examine the feasibility of his regularisation. While doing so, the authorities ought to adopt a positive approach coupled with an empathy for the person."

The following directions were given by this Tribunal:-

"In the light of the above, the application is disposed of with the direction to the respondents to make a realistic assessment of the requirement of staff belonging to Group 'D' and other categories in which the applicants have worked as casual labourers for several years. In the light of such assessment, the respondents should consider creation of the requisite number of regular posts in which the applicants could be regularised subject to their fulfilment of the requisite qualifications. They should also be given relaxation in age to the extent of service already put in by them. Till they are regularised, the respondents shall pay to the applicants wages in accordance with the relevant instructions issued by the Department of Personnel and Training."

A detailed counter to the contempt petition has now been filed by the respondents in which the main averments are these. After receipt a copy of the judgement of the Tribunal, the respondents have taken the following actions:-

- (a) Temporary status has been conferred to 429 daily wage workers in A.S.I., Delhi Circle under the Scheme called Casual Labours (Grant of Temporary Status and Regularisation) Scheme, Govt. of India, 1993;
- (b) Action has been initiated to assess the requirement of additional Group-D posts through out the country and for obtaining Government sanction. It has, however, been clarified that bulk of the posts to be created are those of

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Monument Attendants and according to the Recruitment Rules, a candidate must have served atleast 3 years in Armed Forces. It has also been stated that there are no regular posts of coolie, beldar, mistry, stone cutter and such posts cannot be created as the requirement is purely casual, arising due to either natural calamities or seasonal affects.

In the rejoinder-affidavit filed by the applicants, objection has been taken to the seniority list filed by the respondents assigning seniority only for those years when workman has completed 240 days in a year.

So far as grant of temporary status and regularisation as Group-D worker is concerned, we are satisfied that the respondents have implemented the instructions of Department of Personnel & Training dated 1.9.1993. Para-5(vi) of the Scheme provide that after rendering three years' continuous service after conferment of temporary status, the casual labourers should be treated on par with temporary group-D employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group-D employees. Those casual workers who have completed three years after grant of temporary status, should be given the benefit of these provisions.

According to the seniority list circulated in the year 1984-1985, most of the applicants have been working since 1975-1978 as sweepers, beldars, coolies, mistries and stone cutters. It is contended by the

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respondents that job requirement for these trades are only seasonal or periodical. The possibility of having a few regular posts for these trades in every circle does not seem to have been examined by the respondents. They have considered any further expansion of the staff in terms of posts of Monument Attendants only. These posts can only be manned by ex-servicemen. The respondents should have considered relaxation of this condition in case of those long term casual workers. The respondents shall now appoint an expert committee in consultation with Department of Personnel & Training to assess the requirement of workers in the various trades in which the applicants are engaged in order to ensure that as many ^{as} regular jobs as required are created. They shall also examine the possibility of relaxing the rule regarding service in the Armed Forces for the post of Monument Attendant provided that the applicants are otherwise eligible. Such a committee shall be constituted within a period of two months from the date of receipt of a certified copy of this order and shall be asked to submit its report within a period of four months thereafter. The contempt petition is disposed of with the above observations and the notices are discharged.

B.N. Dhondiyal
(B.N. DHONDİYAL)
MEMBER (A)

S.K. Dhawn
(S.K. DHAWN)
VICE-CHAIRMAN (J)

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