

In the Central Administrative Tribunal
Principal Bench, New Delhi

23

Regn. Nos.:

Date: 19.2.1993.

1. RA- 370/92 In
OA-2104/89

Union of India

.... Petitioners

Versus

Shri Lachman Dass

.... Respondent

2. RA- 371/92 In
OA-2112/89

Union of India

.... Petitioners

Versus

Shri Shyam Sunder

.... Respondent

3. RA- 372/92 In
OA-2089/89

Union of India

.... Petitioners

Versus

Shri Gir Raj Singh

.... Respondent

For the Petitioners
(Union of India)

.... Shri N. S. Mehta, Advocate

For the Respondents
(Original Applicants)

.... Shri S. C. Juneja, Advocate

CORAM: Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see
the judgement? $\frac{1}{4}$

(Judgement by Hon'ble Mr. P.K. Kartha, Vice-Chairman) A

These three Review Applications have been filed by the
Union of India represented by the National Informatics Centre,
which is the respondent in O.A. Nos. 2104/89, 2112/89, and
2089/89, which were disposed of by a common judgement dated
30.1.1992. The original applicants, who had worked as casual
labourers for various periods under the respondents, were

(9)

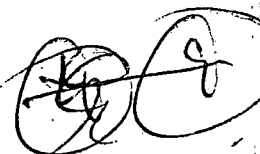
29

- 2 -

aggrieved by the termination of their services u.e.f. 27.12.1988. They had claimed regularisation of their services. They had alleged that the respondents had terminated their services while retaining their juniors and outsiders in preference to them. After going through the records of the case and hearing the learned counsel for both the parties, the Tribunal held that the termination of the services of the three applicants in the aforesaid applications was not legally sustainable. Accordingly, the impugned orders of termination dated 28.12.1988 were set aside and quashed and the respondents were directed to reinstate them as casual labourers within a period of one month from the date of the receipt of the order. In the facts and circumstances of the case, the Tribunal did not direct payment of back wages to them. It was further directed that the original applicants were also to be continued in service so long as they needed the services of casual labourers and so long as they retained the services of persons engaged by them after passing the order of termination.

2. The respondents (Union of India) filed the review petitions on 20.2.1992 under filing No.1898 dated 20.2.1992 which was found to be defective as they had filed a common review petition in all the three cases and the Registry

.....3...

25 

directed that separate review petitions should be filed in each case. This was received by the respondents on 28.9.1992 and thereafter, they filed the amended review petition on 17.11.1992. It has been stated in the amended review petition that the three original applicants, along with eight others who were similarly placed, were disengaged from 27.12.1988 as they had not completed the minimum two years of continuous service envisaged in the O.M. dated 7.6.88 issued by the Department of Personnel & Training. After disengaging the ^{original applicants} ~~the~~, they have stated that they have not engaged any fresh persons as casual labourers. They have also stated that in case they need the services of casual labourers, the claim of the applicants for re-engagement will be considered along with others.

3. In the Tribunal's judgement dated 30.1.1992, the Tribunal referred to MP Nos. 2323/90, 2397/90, and 2325/90 in which the original applicants had contended that the respondents had recruited five persons as casual labourers between the months of February and May, 1990. They had mentioned the names of the persons so recruited. While the respondents did not deny having engaged these persons after the termination of the services of the applicants, their contention was that the persons so recruited were Ex-Servicemen and it was felt preferable on considerations of security to engage them. The Tribunal observed that the

fact that the newly recruited persons belonged to the category of Ex-Servicemen, would not make any difference in the legal position so far as the violation of Articles 14 and 16 of the Constitution was concerned. Engagement of fresh recruits as casual labourers after terminating the services of the original applicants, was held to be violative of the provisions of Articles 14 and 16 of the Constitution.

4. In the review application^{cation} filed before us, it has been stated that the five persons who were recruited^{were a} not as casual labourers, but as regular Group 'D' employees in regular vacancies of Safaiwalas/Loaders and they were appointed on the basis of nominations received from the Directorate of Re-settlement and Employment Exchange for selection of regular Safaiwalas/Loaders. The Employment Exchange did not, however, sponsor the names of the original applicants for such selection.

5. In the meanwhile, the original applicants filed CCP Nos. 376/92, 374/92, and 375/92 alleging that the respondents have not complied with the directions contained in the judgement. By judgement dated 23.12.1992, the Tribunal held that no contempt had been committed as the respondents had re-engaged the applicants pursuant to the judgement dated 30.1.1992, subject to the outcome of the review applications filed by them.

6. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. The learned counsel for the original applicants (respondents herein) argued that ~~wik~~ the review applications are barred by limitation as they were not filed in time. He did not, however, dispute the version of the respondents that five persons who were recruited by the Union of India after terminating the services of the original applicants, had been appointed on regular basis after their names had been sponsored by the Employment Exchange for that purpose. In our opinion, there is a qualitative difference between engagement of casual labourers on the basis of sponsorship by the Employment Exchange and appointment of persons to Group 'D' posts on regular basis pursuant to the nominations received from the Employment Exchange. It may be that in all fairness, the case of the applicants for regularisation should also have been considered along with the candidates sponsored by the Employment Exchange. That question cannot, however, be gone into while adjudicating upon the review petition. The respondents have already re-engaged the applicants pursuant to the judgement of the Tribunal dated 30.1.1992. As the respondents have now brought to our notice that five persons belonging to the category of Ex-Servicemen were regularly engaged by them after terminating their services, we ^{allow} the review application and ^a recall

our judgement dated 30.1.1992 and direct that the petitioners (Union of India) shall continue to engage the original applicants (respondents herein) so long as they need the services of casual labourers and in preference to persons with lesser length of service and outsiders. We further direct that in case the respondents decide to fill up any regular vacancies in the Group 'D' category, the suitability of the original applicants (respondents herein) should also be considered along with other candidates who may be sponsored by the Employment Exchange. In that event, the respondents shall not insist on the names of the original applicants (respondents) being again sponsored by the Employment Exchange if their initial engagement was made after such sponsorship. The respondents shall also give to the original applicants relaxation in age to the extent of the service already rendered by them. The RAs are disposed of on the above lines. There will be no order as to costs.

7. Let a copy of this order be placed in all the three case files.

(B.N. Dhoundiyal)
Administrative Member

(P.K. Kartha)
Vice-Chairman (Judl.)

(SUDAY S. ARMA)
Section Officer
Civil & Administrative Tribunal
Principal Secy. Secy. to the Secy.
New Delhi-110001