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In the Central Administrative Tribunal
Principal Bench, New Delhi

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. Dheundiyal, 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) #

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

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being aggrieved by the termination of their services u.s.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 termina-

tion of the services of the three applicants in the afore-

said 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 termi-

nation.

2. The respondents (Union of India) filed the review

petition 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

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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} ~~they~~, 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 filed before us, it has been

stated that the five persons who were recruited ^{were} 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 ~~with~~ 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 ^arecall ^a

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

15/2/93
Attested


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

(SANJAY SHARMA)
Section Officer
Central Administrative Tribunal
Principal Bench, Faridkot House
New Delhi 110001