

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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Regn.No.OA 2066/90
with
CCP. 200/90

Date of decision: 5.3.1991.

Shri Nand Kishore & Others

...applicants

Vs.

Union of India through the
Secretary, Ministry of
Information & Broadcasting
and another

...respondents

For the Applicants

...Shri T.C.
Aggarwal, Counsel

For the Respondents

...Shri M.L. Verma,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.K. CHAKRABORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha, Vice Chairman(J))

The applicants, who have worked as Casual Workers in the office of the respondents, filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

(i) To direct the respondents to regularise them as Class IV employees giving them preference as they belong to the reserved category;

(ii) to direct the respondents not to terminate

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their services; and

(iii) to direct that they should be given regular pay of Class IV for the whole period treating breaks as duty.

2. The application was filed in the Tribunal on 8.10.1990. On 9.10.1990, the Tribunal while admitting the application passed an interim order directing the respondents to consider engaging the applicants as casual labourers in preference to their juniors. The interim order has thereafter been continued till the case was finally heard on 15.1.1991 when the judgment ^{was} reserved on the application.

3. The applicants have also filed CCF 200/90 wherein they have alleged that the respondents have not complied with the interim order passed by the Tribunal.

4. The facts of the case in brief are as follows. The applicants have been in continuous service of respondent No.2 (Director, Publications Division) from 25.4.1989. The details of the service put in by them have been set out in Annexure A-1 to the application at page 14 of the Paper Book, which have not been controverted by the respondents in their counter-affidavit. They have alleged that the respondents have terminated their services while several persons junior to

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them have been retained in service.

5. Neither the applicants nor the respondents have stated as to when the services of the applicants had been terminated.

6. The stand of the respondents is that the applicants had been engaged as casual workers for occasional, casual and intermittent nature of work. They were mostly engaged as water boys whenever required and disengaged thereafter. They have also stated that the applicants have not made any application or representation to the respondents seeking any relief.

7. The applicants are working in the Publications Division which is an attached office of the Ministry of Information and Broadcasting. The respondents have contended that being the Head of the Department, the Director, Publications Division is competent for engagement of daily wage mazdoors.

8. We have gone through the records of the case carefully and have considered the rival contentions. In our opinion, the applicants who have worked for more than 2 years as casual labourers deserve to be considered for regularisation of their services, ignoring the artificial breaks in their service. In this respect, we follow the decision of this Tribunal

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in D.P. Tewari & Others Vs. Union of India & Another, 1990(3) SLJ (CAT) 94 and Raj Kamal & Others Vs. Union of India, 1990(2) CAT 169, to which both of us are parties. In Raj Kamal's case, we had held that for the purpose of regularisation of casual labourers, the Union of India should be treated as a single unit. We, therefore, reject the contention of the respondents that the Publications Division in which applicants have worked cannot provide employment to them. Following the ratio in Raj Kamal's case, the application is disposed of with the following orders and directions:-

- (i) We set aside and quash the impugned orders of termination of the services of the applicants. The applicants shall be re-engaged as casual labourers in the regular vacancies in the post of Group 'D' arising in the Ministry of Information and Broadcasting including its offices in Delhi and consider their regularisation in such vacancies.
- (ii) In case no vacancies exists in the Ministry of Information and Broadcasting and its offices in Delhi, the applicants should be adjusted against the vacancies of Group 'C' staff in other ministries/departments/attached/subordinate offices for appointment in accordance with the scheme directed to be prepared as mentioned in para 21 of the judgment in Raj Kamal's case.

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(iii) The respondents are directed not to induct fresh recruits as casual labourers through Employment Exchange or otherwise, overlooking the preferential claims of the applicants.

(iv) The emoluments to be given to the applicants till their regularisation should be strictly in accordance with the orders and instructions issued by the Department of Personnel & Training. After their regularisation, they shall be paid the same pay and allowances as regular employees belonging to the Group 'D' category.

(v) The interim order passed on 9.10.1990 and continued thereafter directing the respondents to consider the applicants as casual workers in preference to their juniors in their offices is hereby made absolute.

(vi) Orders on CCP 200/90

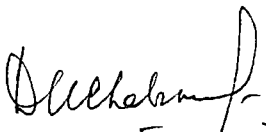
The version of the respondents on the CCP filed by the petitioners is that respondent No.1 (Ministry of Information and Broadcasting) has not committed any contempt in as much as no casual worker has been engaged in the Publications Division (Headquarters) by them. They have contended that the Employment News hold control on the engagement of daily wagers through its

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Circulation-cum-Advertisement Manager and the engagement of daily wager in Employment News is not under the administrative control of respondent No.1. The Circulation-cum-Advertisement Manager has denied that any person junior to the applicants has been engaged as casual workers after the passing of the interim order by the Tribunal.

As already pointed out, the Union of India is a single legal entity though it functions in various ministries/departments/attached/subordinate offices. This aspect of the matter has been dealt with at length in the Tribunal's judgment in Raj Kamal's case, mentioned above. We, therefore, direct the respondents to comply with the aforesaid directions. The CCP is disposed of on the above lines and the notice of contempt discharged.

There will be no order as to costs.


(D.K. CHAKRAVORTY)
ADMINISTRATIVE MEMBER


5/3/91
(P.K. KARTHI)
VICE CHAIRMAN (J)