

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI.

0.A.2217/90

Date of Decision: 10.1.92

CORAM:

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

THE HON'BLE MR. B.N. DHOUNDIYAL, MEMBER (ADMN.)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No

JUDGEMENT

(of the Bench delivered by
Hon'ble Shri B.N. Dhoundiyal, Member)

These ten applicants who have worked as Casual Labourers in the Naval Establishment, INS India, New Delhi, under the Ministry of Defence, are aggrieved by the order dated 25.9.90, whereby, their status was sought to be changed from regular pay scale employees to daily wagers.

By

2. Duly sponsored by the Employment Exchange and successfully passing through the prescribed interviews and screening, the applicants were appointed as Casual Labourers at the minimum of the pay scale of Rs.740-940 with D.A. and other allowances. They have given in the application, the following particulars regarding their appointment:-

Sl. No.	Name & Qualification & Designation	Date of initial appointment	Date of Birth	Age as on date of Appointment	Age as on today
About Years					
1.	Sukhbir Singh VIIIth Pass Electrician Helper	24.2.1986	2.4.1963	23	27
2.	Thana Tam Vth Pass Fitter Helper	24.2.1986	15.8.1963	23	27
3.	Shamboo Nath Vth Pass Maintenance	24.2.1986	1.3.1963	23	27
4.	Suresh Ram VIIth Pass	24.2.1986			
5.	Parkash Singh Balmiki	26.6.1987			
6.	Suresh Kumar Vith Pass	3.8.1987	1.9.1963	24	27
7.	Jage Ram	18.10.1987			
8.	Nirmal	18.10.1987			
9.	Rajbir VIIIth Pass R.I.S. Labour	8.8.1988	12.9.1959	29	31
10.	Ram Chander R.I.S. Labour	7.11.1988			

DIV

3. No formal letters of appointments were issued to the applicants nor were they given any increments. The appointments were given for a specific period each time but were continued from time to time. Thus they have been working for periods ranging from $1\frac{1}{2}$ years to $4\frac{1}{2}$ yrs. continuously without any break. At the minimum of the scale, they were getting Rs.1215/- per month, which would get reduced to Rs.500-600 per month, if they are treated as Nerrick workers or daily wagers. Availability of vacancies, satisfactory services rendered by them, their having become over-aged for any other job and their having worked for more than 240 days have been cited as reasons justifying their claim for regularisation. Relying on a catena of judgement by this Tribunal and the Supreme Court, they have prayed that the respondents be directed to regularise their services. They have prayed that the respondents be restrained from converting their status to that of daily wagers and directed to continue their salary on the regular pay scale of Rs.750-940.

4. An interim order was passed on 29.10.90 restraining the respondents from giving effect to the impugned order which has been continued thereafter till the application was finally heard on 22.10.1991.
DW

(8)

5. The respondents have raised the plea that the applicants were engaged as Casual Labourers for specific periods and specific casual types of job. Their services stood automatically terminated on expiry of the specific period, for which they were engaged. The appointment orders clearly mentioned this fact. Their claim of continuous service is not sustainable as they were given appointment for specific periods, each spell being treated as fresh appointment, with relation to the post. They were never engaged for more than 89 days at a stretch. No regular vacancy is available against which they can be considered for regular appointment.

6. We have gone through the records of the case and heard the learned counsel for both the parties. The Supreme Court has in a number of Judgements held that Casual Labourers with continuous and long service are entitled to regularisation and necessary relaxation in respect of age and educational qualification should be given to them. The Government have been directed to prepare a scheme for their regularisation and restrained from terminating their services till then (Bhagwathi Prasad Vs. *Bal*)

Delhi State Mineral Development Corporation.,
J.T. 1989 (4) 541); Dharwad District PWD Literate
Daily Wages Employees Association & Ors. Vs. State
of Karnataka and Another, Writ No. 8307-11 of 1985
decided on 23.2.90; Bhartiya Dak Tar Mazdoor Manch
Vs. U.O.I., AIR 1987 SC 2342; U.P. Income Tax
Department Contingent Paid Staff Welfare Assn. Vs.
UOI., AIR 1988 SC 517; Genda Ram Vs. M.C.D., 1988(1)
SLR 327). This Tribunal has also reiterated the
same view in Durga Prasad Tewari and Ors. Vs. UOI
and Another, 1990(3) SLJ CAT 94 and Raj Kamal & Ors.
Vs. UOI, 1990(2) SLJ CAT 169. The following directions
were given by this Tribunal in Raj Kamal's Case:-

"We are, therefore, of the opinion that in order to solve the problem of Casual Labourers engaged in the Central Government offices in a fair and just manner, the proper course for the Government would be to prepare a scheme, somewhat like the one in operation for redeployment of surplus staff, vide Department of Personnel and Administrative Reforms O.M.No.3/27/65-CS-II dated 25.2.1966 and amplified vide Department of Personnel and Training O.M.No.1/7/81-CS-II, dated 30.4.1987 and the Department of Personnel and Training's O.M.No.1/14/88-CS-III dated 31.3.1989 and 1/18/88-CS-III dated 1.4.1989, for all Casual Labourers engaged prior to 7.6.1988, but who had not been regularised by the authority concerned for want of regular vacancies or whose service has been dispensed with for want of regular vacancies. Since the Department of Personnel and Training is monitoring the implementation of the instructions issued vide O.M. dated 7.6.1988, the Union of India through that Department should undertake to prepare a suitable scheme for absorbing such casual labourers in various ministries/departments and subordinate and attached offices other than the Ministry of Railways and Ministry of Communications. Their absorption should be on the basis of the total number of days worked by the persons concerned. Those who have worked for 240 days/ 206 days (in the case of six days/five days week, respectively), in each of the two years prior to 7.6.1988 will have priority over the others in regard to absorption. They would also be entitled to their absorption in the existing or future vacancies. Those who have worked for

AN L** (J.T. 1990(1) SC 343)

lesser periods, should also be considered for absorption but they will be entitled to wages for the period they actually worked as casual labourers. No fresh engagement of casual labourers against regular vacancies shall normally be resorted to before absorbing the surplus casual labourers. The fact that some of them may not have been sponsored by the Employment Exchange, should not stand in the way of their absorption. Similarly, they should not be considered ineligible for absorption if, at the time of their initial engagement, they were within the prescribed age-limit.

A scheme as indicated above should apply to all the ministries/departments of the Government of India and offices under their control except where schemes have already been prepared pursuant to the directions of the Supreme Court, such as in the Railways and the Ministry of Communications. It should also apply, mutatis mutandis, to the office of the Comptroller and Auditor General of India and offices under the Comptroller and Auditor General of India."

7. Following the ratio of the aforementioned Judgements, we allow the application and dispose it of with the following orders and directions:-

1. The impugned order dated 25.9.90 is hereby set aside and quashed. The respondents are directed to continuo the services of the applicants in the pay scale of Rs.750-940 per month. The interim order already passed on 29.10.1990 is hereby made absolute.

2. The age limit for recruitment shall be relaxed in case of the applicants to the extent of service already rendered by them.

3. For purpose of regularisation, all the establishments of the Ministry of Defence shall be treated as one unit. If the vacancies are not available

SN

11

in the Naval Units, the applicants shall be accommodated in any other office under the Ministry of Defence, depending on the availability of vacancies.

4. The respondents shall comply with the above directions within a period of three months from the date of communication of this order.
8. There will be no orders as to cost.

B.N. Dhundiyal
(B.N. DHUNDIYAL)
MEMBER (A)

Kartha
10/11/92
(P.K. KARTHA)
VICE CHAIRMAN (J)

kam.