

(18) (19)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 2570 /1990

New Delhi: this the 31st day of December, 1996.

1. Shri Sri Bhagwan S/o Shri Raje Ram,
H.No.1443, Outram Lines,
Opp. B.M.M. Depot,
Kingsway Camp, Delhi.
2. Shri Pradeep Kumar S/o Sh. Rajender,
R/o Village Barmoli,
P.O. Dhul Saras, New Delhi 61.
3. Chander Sheikhar S/o Ram Kishan,
H.No.24/13, India Marg No.3,
Shiv Mandir Chhajupur,
Shahdara, Delhi.
4. Harinder Mohan S/o Krishan,
R/o RZ 130, Santosh Park,
Uttam Nagar, Delhi.
5. Surender Pal S/o Ram Singh,
R/o Gr.No.1095, Gulabi Bagh,
Delhi 7.
6. Bijender Singh S/o Mange Ram,
R/o Village Barwasni,
Sonapat, Haryana.
7. Anil Kumar Sharma S/o R.D. Sharma,
51A, Block C, Pocket 'B' MIG Flats,
Shalimar Bagh, Delhi.
8. Ranvir Singh S/o Partap Singh,
R/o Village Nijampur, Majra,
Sonapat, Haryana.
9. Dharma Nand S/o Shri Narotam,
R/o H.No.177, Jeevan Nagar,
Sonapat (Haryana).
10. Subhash Chand S/o Shri Hari Chand,
R/o Village Jatola,
Dist. Sonapat Haryana.
11. Govind Ram Gaur S/o Inder Mal,
R/o Village & P.O. Poothkhurd,
Delhi 39.
12. Rajiv Sharma S/o R.S. Sharma,
R/o H.No.20, Tis Hazari,
Near Court Compound, Delhi.
13. Vijender S/o Sh. Ishwar Singh,
R/o H.No.123, Village Sultanpur Dabas,
Delhi.
14. Karan Singh S/o Sh. Sohan Lal,
R/o 1311, Ganj Mir Khan,
Darya Ganj, Delhi.

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15. Khem Chand Sharma S/o Sh. Kewal Ram,
R/o Village Piyala,
Post Office Asawati,
Dist. Faridabad, Haryana.
16. Narendra Kumar S/o Sh. Sher Singh,
R/o Cr. No. 1108,
Gulabi Bagh, Delhi 7.
17. Rajiv Rana S/o Sh. Sahib Singh Rana,
R/o H.No. B-K/26, Shalimar Bagh,
Delhi.
18. Anil Kumar S/o Sh. Om Parkash,
R/o D-156, New Silampur,
Shahdara, Delhi.
19. Prem Singh Rana S/o Ved Singh Rana,
R/o Village Mungeshpur,
Delhi-41.
20. Amar Nath S/o Sh. Maha Ram,
R/o 21A, Vikaspuri,
NEW DELHI.
21. Manjit Singh S/o Karan Singh,
R/o T-117 Indra Colony,
Narela,
Delhi-40.
22. Suraj Ehan S/o Hari Ram,
R/o WZ 1093, Kangal Rai,
NEW DELHI 46.
23. Suresh Kumar S/o Balwant Rai,
R/o 295, Village Shalimar,
Delhi 52.
24. Inderjit S/o Chander Ehan,
R/o 130A, Auchandi Road,
Bawana, Delhi.
25. Sanjeev Kumar S/o Sh. Ajit Singh,
C-3/13, Yamuna Vihar,
New Delhi.
26. Ashok Kumar S/o Sh. Nand Kishore,
R/o H.No. 652,
Pana Begwan Village Bawana,
Delhi 39.
27. Devi Ram S/o Shri Harphool Singh,
Village Deeghot, Tehsil Palwal,
Dist. Faridabad, Haryana.



28. Vinod Kumar Pandey S/o Sh. Rajinder Kumar,
R/o H.No.172, Kalyanwas,
Delhi 91.

29. Daya Ram Dubey s/o Davi Parsad,
J-96, Kartar Nagar,
Maujpur,
Shahdara,
Delhi -53

.....-Applicant

(By Advocate: Shri G.R.Matta)

Versus

1. Deputy Commissioner,
Tis Hazari Courts,
Delhi - 54.

2. Shri M.P.Tyagi,
Addl. District Magistrate,
(Revenue),
Tis Hazari Courts,
Delhi - 54

..... Respondents.

(By Advocate: Mr. Ashoke Jain).

HON'BLE MR.S.R.ADIGE, MEMBER(A).

HON'BLE DR.A.VEDAVALLI, MEMBER(J).

JUDGMENT

BY HON'BLE MR.S.R.ADIGE, MEMBER(A).

The applicants seek a direction that an intermittent artificial/ notional breaks of service at the end of 90 days of service, is illegal and void and disregarded, and not effecting the continuity of service, with consequential benefits of pay and allowances for these breaks, increments, seniority, leave and other service benefits.

2. From the materials on record, it appears that the respondents issued Circular dated 8.2.88 (Annexure-A to the reply) intimating that it has been decided to fill up inter alia 11 posts of Patwari on purely temporary and adhoc basis for a period of three months from the date the incumbent took over charge, and

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eligible persons were called upon to send their applications along with their testimonials by the prescribed date. It was made clear that the posts were only for a period of 3 months and the service of the officials appointed would be terminated after 3 months without any notice. The educational qualifications prescribed were matric with preference to Patwar pass. The age was relaxable to 5 years in case of SC/ST candidates. In response to this circular, the applicants applied and after being called for interview, they were issued an appointment offer (Annexure-A III), in which it was made clear that the appointment was in purely temporary capacity on adhoc basis for a period of three months from the date the incumbent took over charge or till the regular appointments were made, whichever was earlier. A formal appointment order was also issued on 13.4.88 in respect of some of the applicants (Annexure-AIV) in which it was again made clear that the appointment was made on purely temporary/adhoc basis and subject to the conditions laid down in the offer of appointment and it would be for 3 months from the date they took over charge or till the regular appointments were made, whichever was earlier, and at the end of three months their services were terminated w.e.f. 10.7.88 (Annexure-AV) and a fresh appointment letter was issued on the same terms and conditions appointing them for a further three months (Annexure-A VI). The respondents contend that these breaks period were factual and the payments were made during that period.

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3. In this connection, we have heard applicants' counsel Shri Matta and respondents' counsel Ms. Ashoka Jain.
4. We have perused the materials on record.
5. We notice that the recruitment to the post of Patwari is governed by the Delhi Land Revenue Rules, 1962 under which the competent authority is required to maintain a list of Patwari candidates arranged in order of seniority as determined by the year of examination, and seniority as between the candidates of the same year be judged on the basis of aggregate marks, which is to be revised every year after the receipt of the examination result by removing those who received permanent appointments, or exceeded the maximum age limit or by passing over any name for any good and sufficient reasons to be recorded in writing. Whenever a Malka of any Patwari falls vacant, the competent authority is required to appoint thereto the seniormost candidate on the list maintained under these rules, provided that he may pass over any name or names for any good and sufficient reasons to be recorded in writing and provided further that the candidate so appointed was not less than 18 years of age and not above 25 years on the date of appointment and had passed the matriculation or an equivalent examination recognised by the Govt.
6. Manifestly, therefore, the applicants who were appointed on purely temporary and adhoc basis for a period of three months at a time, were not appointed from out of list of Patwaris who had passed the Patwari school examination, their adhoc appointment was thus dehors the rules.
7. In this connection, we find that by respondents'

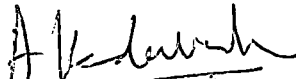
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order dated 10.10.95, a copy of which is taken on
record, these applicants have been appointed ^{on regular basis} ~~as~~
Patwaris in temporary capacity in order of seniority
on the basis of the result of Directorate of Training,
UTCS, Govt. of NCT of Delhi with immediate effect,
subject to being declared medically fit, and will
remain on probation for a period of 2 years.

8. As the appointment of applicants in 1988 was
on purely temporary and adhoc basis for a period of
3 months at a time which was followed by fresh
appointment letter, and as those appointments ^{were} ~~dehors~~
the rules because the applicants had not been
appointed from the list of those who had passed the
Patwari exam., we are unable to grant them continuance
officiation from the date of their temporary/adhoc
appointment till their appointment on regular basis,
as prayed for by them.

9. The OA is dismissed. No costs.


(DR. A. VEDAVALLI)
MEMBER (J)


(S. R. ADIGE)
MEMBER (A).

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