

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

1. OA 2639/90 DATE OF DECISION: 23.04.1992.

KAMLESH RAI & ANOTHER ...APPLICANTS

VERSUS

DIRECTOR GENERAL, E.S.I.C. & ANR....RESPONDENTS

2. OA NO.2699/90

HAWA SINGH ...APPLICANT

VERSUS

DIRECTOR GENERAL, E.S.I.C. & ...RESPONDENTS  
& ANR.

3. OA 2526/90

SHRI KRISHAN SAH ...APPLICANT

VERSUS

DIRECTOR GENERAL, E.S.I.C. & ...RESPONDENTS  
ANR.

CORAM:-

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

**THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)**

FOR THE APPLICANTS SHRI K.L. BHATIA, COUNSEL

FOR THE RESPONDENTS SHRI D.P. MALHOTRA, COUNSEL

**JUDGEMENT (ORAL)**

(DELIVERED BY HON'BLE MR. P.K. KARTHA, VICE-CHAIRMAN(J))

We have heard the learned counsel of both parties and gone through the records of these cases. The applicants in these cases have worked as daily paid Loaders/Unloaders in the office of the respondents (ESIC Hospital Complex) for over 240 days. They are presently continuing as daily paid Loaders/Unloaders on the basis of the interim orders passed by the Tribunal, directing the respondents to consider engaging them in preference to juniors and outsiders. *Q*

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2. The applicants have contended that having worked for more than 240 days, they are entitled to regularisation. The respondents have, however, contended in their counter-affidavit that there are no regular posts in which the applicants ~~could~~ be accommodated and that the engagement of Loaders/Unloaders is based on the exigencies of work and is of an ~~an~~ intermittent nature.

3. The learned counsel for the respondents fairly stated at the Bar that regular employees of Group 'D' category have expressed their reluctance in doing the job entrusted to Loaders/Unloaders and <sup>this has a</sup> necessitated appointment of the requisite number of persons on daily paid basis. He, however, has not denied the assertion made by the learned counsel for the applicant that all the applicants have worked as Loaders/Unloaders satisfactorily and that there are no complaints about their work and conduct.

4. After hearing both sides, we feel that the applicants should be considered for regularisation in Group 'D' posts. It will, however, be open to the respondents to prescribe the duties attached to the posts in which the applicants may be considered for regularisation. In other words, a new category of Group 'D' posts with separate job description, including loading/unloading, be created. The service rendered by the applicants already as Loaders/Unloaders and the experience gained by them should also be taken into account for the purpose of their regularisation.

5. The respondents shall comply with the above directions as expeditiously as possible and preferably within a period of six months from the date of receipt of this order. The interim orders passed in these

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applications are hereby made absolute with the aforesaid observations.

There will be no order as to costs. Let a copy of this order be placed in all the case files. *✓*

*I.K. Rasgotra*  
(I.K. RASGOTRA)  
MEMBER (A)

*P.K. KARTHA*  
(P.K. KARTHA)  
VICE-CHAIRMAN

April 23, 1992.

SKK  
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