

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.53/90

New Delhi this the 5th July, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A)
Smt. Lakshmi Swaminathan, Member (J)

1. Vishnu Paswan S/o
Sh. Palto Paswan,
R/o Gulabi Bagh,
House No.1097,
New Delhi.

2. Sunder Pal Sharma
S/o Sh. Jay Kishan Sharma,
R/o 335-C Chhaju Colony,
Old Delhi Gali Chankaya Marg,
Durga Puri Chowk, Delhi.

...Applicants

(None for the applicants)

Versus

1. General Manager,
Canteen Stores Department,
'ADELPHI', Bombay-400 020.

2. Area Manager,
Canteen Stores Department,
Delhi Depot, Transit Camp,
Red Fort, Post Box No.1146,
Delhi-110 006.

...Respondents

(By Sh. M.K. Gupta, Additional Standing Counsel)

ORDER(ORAL)
(Hon'ble Mr. N.V. Krishnan)

The applicants in this case are casual labourer employed in the Canteen Stores Department under the second respondent, the Area Manager, Canteen Stores Department. Their grievance is that they have been informed by an oral order that they need not report for duty after 31.12.88. It is prayed that the respondents should be directed to keep the applicants in service and regularise them.

2. When this case came up for hearing, neither the applicants nor their counsel appeared, though the matter was called twice. As this is listed at serial No.4 of today's cause list under regular matters with a

note to the counsel that the first 10 cases are posted peremptorily for final hearing, we have heard Sh. M.K. Gupta, Additional Standing Counsel for the respondents and we proceed to pass final orders.

3. The respondents have filed a reply. It is stated that the instructions have been issued to discontinue the services of casual labourers and absorb them if possible against regular posts on the basis of their seniority as and when vacancies arise. Accordingly, it is stated as follows:-

"Now, as per Government instructions conveyed to HQ Bombay vide Ministry of Defence letter No.BCCCS/01032/DDCCS dated 19.9.88, DO NO.01032/DDCCS of 17.10.88 and BCCCS/01032 of 7.12.88 directed us to draw All India Seniority Panel and give the regular appointment to the seniormost empanelled group D Staff working in this Department. Thus accordingly the seniority list of the empanelled candidates is drawn and appointment orders for regularisation of the services issued as per the existing vacancies.

As these applicants were junior to the other staff who were occupying the authorised vacancies of Group 'D' posts, therefore, their services were not more required while regularising the staff senior to them."

It is submitted that the applicants were engaged as daily rated casual mazdoor who do not have a right to be regularised, excepting to the extent indicated by the standing orders referred to earlier.

4. We have considered the matter. As the respondents have already taken action to prepare an All India Seniority panel and give regular appointment to the seniormost empanelled persons and as it is further stated that the applicants were too junior in the seniority list / they could not be considered for regularisation, we are satisfied that the applicants cannot claim any regularisation out of turn.

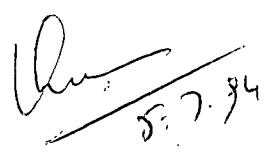
5. In the circumstances the respondents are directed to consider the case of the applicants for regularisation in Group 'D' posts as and when their turns come in accordance with the seniority list referred to in the reply of the respondents, it being understood that, at the time of such appointment, the respondents shall relax the condition regarding the maximum age for recruitment.

6. We notice that on 23.2.90 an interim direction was issued that, in case any fresh appointment is to be made to the post held by the applicant they should be given preference over the outsiders. It is clear that the applicants were not holding any posts but they were working only as casual labourers. Therefore, we now direct in modification of the order dated 23.2.90, that, in case the respondents recruit any casual labourer, the claims of the applicants for such engagement should be given preference over the outsiders considering the fact that they had already worked in the department for some time earlier.

7. The O.A. is disposed of, as above. No costs.


(Smt. Lakshmi Swaminathan)
Member(J)

Sanju.


(N.V. Krishnan)
Vice-Chairman