

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 868/90
T.A. No.

199

DATE OF DECISION 5.3.1991.Shri Mohinder Singh & Others~~Petitioner~~ ApplicantsShri A.K. Behra,Advocate for the ~~Petitioner~~ Applicant

Versus

Union of India through the
Secy., Min. of Home Affairs & Ors.

Respondent

Shri M.L. Verma,

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(Judgement of the Bench delivered by Hon'ble
Mr. D.K. Chakravorty, Administrative Member)

The applicants, who have worked in Class IV posts in various Commissions set up by the Union of India, filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

- (i) To direct the respondents to absorb them in Group 'D' posts in any ministry/government department/office;
- (ii) to direct them to count their past service for all service benefits, like seniority, pension, etc.; and

(iii) to direct them to give all consequential benefits to them.

2. The facts of the case in brief are as follows. The first applicant was recruited as a Peon in the High Power Panel on Minorities, SCs/STs and other Weaker Sections in the Ministry of Home Affairs, where he worked from 6.8.1981 to 27.12.1983. Thereafter, he was appointed in the Commission on Centre-State Relations, Ministry of Home Affairs, from 27.12.1983 to 21.9.1987. Thereafter, he has worked in the Ninth Finance Commission from 21.9.1987 to 31.3.1990.

3. The second applicant has worked initially in the High Power Panel on Minorities, SCs/STs and other Weaker Sections from 4.7.1980 to 26.12.1983. Thereafter, he worked in the Commission on Centre-State Relations from 27.12.1987 to 27.8.1987. After that, he worked as a Farash in the 9th Finance Commission from 28.7.1987 to 31.3.1990.

4. The third applicant has worked as a Sweeper on daily-wage basis in the Planning Commission from 12.11.86 to 13.3.1987. Thereafter, he worked as Farash/Sweeper on daily-wage basis from 15.3.1987 to 20.6.1988 and on ad hoc basis from 21.6.1988 to 31.3.1990 in the 9th Finance Commission.

5. The fourth applicant was appointed as Chowkidar in the High Power Panel on Minorities, SCs/STs and other Weaker Sections from 1.4.1981 to 15.8.1984. Thereafter, he worked in the Commission on Centre-State Relations from 16.8.1984 to 16.6.1987. Thereafter, he worked in the 9th Finance Commission from 16.6.1987 to 31.3.1990.

6. The fifth applicant was appointed as Safaiwalli in the Commission on Centre-State Relations from 22.3.84 to 6.5.1987 on daily-wage basis. Thereafter, she has worked in the Commission on Centre-State Relations on an ad hoc basis from 5.7.1987 to 6.10.1987 and in the 9th Finance Commission from 7.10.1987 to 31.3.1990.

7. The services of all the applicants were terminated after winding up of the 9th Finance Commission.

8. The applicants have stated that all of them were sponsored by the Employment Exchange at the time of their initial appointment. They have worked without any break till 31.3.1990. Their conduct and performance had been satisfactory. They have alleged that the services of several persons with lesser service have been retained, while dispensing with their services. The names of their juniors have been mentioned in para. 4.6 of the application. According to them, there are a number of

vacancies of Class IV posts in the Ministry of Home Affairs, North Block. When they approached the concerned authorities for being considered for appointment in the vacant posts on the basis of their past service records, they were told that, according to the rules, the posts would be filled up only through the Employment Exchange and hence, they could not be considered for the same.

9. The respondents have not denied the averment made by the applicants that several persons junior to them have been retained in service, while terminating their services. Their plea is that there is no inter se seniority among ad hoc employees. They have also stated that the statement regarding absorption in Central Government service of some employees with lesser duration of employment, cannot be confirmed in the absence of particulars of the ministries/departments where they were statedly absorbed. With regard to the existing vacancies in the Ministry of Home Affairs, the respondents have stated that the applicants have no claim for appointment to Group 'D' posts. Direct recruitment to Group 'D' posts is required to be done firstly through Surplus Cell of the Directorate General of Employment & Training and, secondly, through regularisation of eligible casual daily-wage labourers and failing both, through local Employment Exchanges. According to them, the ad hoc employees engaged in

short-term Committees/Commissions, do not have any right to regular posts of Group 'D' staff after termination of their services on the winding up of such Committees/Commissions.

10. We have gone through the records of the case and have considered the rival contentions. This Tribunal had considered the question of regularisation of Casual Labourers engaged in the various ministries/departments of the Government of India in Raj Kamal & Others Vs. Union of India, 1990 (2), C.A.T. 169, to which both of us are parties. After considering the relevant case law on the subject, the Tribunal had directed that a scheme, as indicated in the judgement, should be prepared by the Department of Personnel & Training for absorbing the Casual Labourers in various ministries/departments. It was further directed that the absorption of Casual Labourers 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 6 days/5 days a week, respectively), in each of the two years prior to 7.6.1988, will have priority over others in regard to absorption. They would also be entitled to their absorption in the existing or future vacancies. Those who have worked for lesser periods, should also be considered for absorption. No fresh engagement of Casual

Labourers against regular vacancies shall normally be resorted to before absorbing the surplus casual labourers.

11. In the instant case, the applicants have worked for more than 240 days in each of the two years prior to 7.6.1988. In view of this and following the ratio in the judgement of the Tribunal in Raj Kamal's case, the application is disposed of with the following orders and directions:-

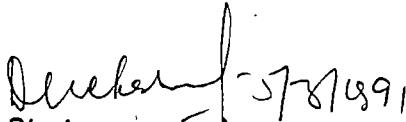
(i) The impugned orders of termination of the applicants after the winding up of the 9th Finance Commission, are set aside and quashed. The respondents are directed to engage the applicants as Casual Labourers in the regular vacancies in the posts of Group 'D' arising in the Ministry of Home Affairs and its offices in Delhi and to consider their regularisation in such vacancies.

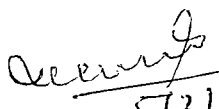
(ii) In case no vacancies exist in the Ministry of Home Affairs and its offices in Delhi, the applicants should be adjusted against the vacancies of Group 'D' staff in other ministries/departments/attached/subordinate offices for appointment in accordance with

a scheme directed to be prepared as mentioned in para.21 of the judgement in Raj Kamal's case.

- (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 11.5.1990 and continued thereafter directing the respondents to keep five Group 'D' posts vacant and not to fill up the same by candidates sponsored by the Employment Exchange or otherwise, is hereby made absolute. The five applicants should be accommodated in these five vacancies.

There will be no order as to costs.


(D.K. Chakravorty)
Administrative Member


(P.K. Kartha)
Vice-Chairman(Judl.)