

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No. 132/91

.. Date of decision: 22.01.93

Smt. Bhar Pai & others

.. Applicant

Versus

Union of India

.. Respondents

Ms. Nitya Ramakrishna

.. Counsel for the applicant

Sh. M.L. Verma

.. Counsel for the respondents

CORAM

Hon`ble Sh. P.K. Kartha, Vice Chairman (J)

Hon`ble Sh. B.N. Dhoundiyal, Member (A)

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?

J U D G E M E N T

(Of the Bench delivered by Hon`ble Sh. B.N.Dhoundiyal,
Member (A)

The 14 applicants in this OA are the part time casual employees of the Postal Department who are aggrieved that though they have served the Department for as long as 20 years, they have not been regularised as full time employees.

According to the applicants, they were engaged as part time casual labourers in the Department of Posts and Telegraph between the years 1973 and 1983 and are working continuously since then. Employment is given for only five hours a day on

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the meagre wage of Rs. 3.75 per hour. No paid holidays are given. Though there is enough work in the organisation as shown by heavy expenditure on overtime and though enough vacant posts are available, they have not been considered for absorption. They appeared in two tests in 1989 and 1990 and were found fit. Extra Departmental and casual employees who were appointed much later than the applicants have been regularised. They have prayed for directions to the respondents to regularise them in accordance with a just and reasonable scheme without subjecting them to any further test.

3. On 4.6.91, this Tribunal passed an interim order directing the Respondents to maintain status quo as on that date as regards the continuance of the applicants as casual labourers. This order has been continued till date.

4. The respondents have contended that the applicants did not enter the Department as casual workers but were employed for short duration from day to day on hourly basis. They are not working full time or against any regular posts. No full time employment can be given to them as their work as Safai Karmcharis, Malis and Waterman etc. is compressed in a short span never exceeding more than five hours a day. Though, part time workers have also been made eligible for regularisation, they get a lower priority than the Extra Departmental hands. Moreover, they failed in the qualifying tests in 1989 and 1990. They are being paid Rs. 4.72 per hour at present. *Av*

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5. We have gone through the records of the case and heard the learned counsel for both parties. The Supreme Court had directed the P &T Department "to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Post and Telegraph Department". "Temporary status would be available to casual labourers in the Postal Department on completion of one year of continuous service with atleast 240 days work (206 days in case of offices observing 5 days week). After rendering three years of continuous service with temporary status the casual labourers shall be treated at par with temporary Grade-D employees of the Department of Posts & Telegraph and would thereby be entitled to such benefits as are admissible to Group D employees on regular basis". In pursuance of these directions, a scheme was prepared by the P &T Department (letter dated 12.4.91) and circulated by the Chief Post Master General (letter dated 15.4.91). Para 7 of the circular issued by the P & T Department reads as follows:

"7. Conferment of Temporary Status does not automatically imply that the casual labourers would be appointed as a regular Group 'D' Employee within any fixed time frame. Appointment to Group D vacancies will continue to be done as per the extant recruitment rules, which stipulate preference to eligible ED employees.

@ Daily Rated Cassual Labourer Vs. U.O.I. (1988) 1 SCC 122.

* Jagriti Mazdoor Union Vs. Mahanagar Telephone Nigam 1990

Supp. SCC 113.

6. Recruitment to Group 'D' posts is governed by the Indian Posts & Telegraphs (Group D posts) Recruitment Rules, 1970 framed under exercise of powers under Article 309 of the Constitution. An amendment to these rules notified under letter dated 24.2.89 provides for recruitment as under :

" By means of a test, as prescribed by the Director General, Department of Posts, from time to time, from amongst the categories specified and in the order indicated below. Recruitment from the next category is to be made only when no qualified person is available in the higher category.

- i) Non-test category officials mentioned at Item II.
- ii) Extra departmental agents of the Recruiting Division or Unit, in which vacancies are announced.
- iii) Casual labourers (Full time and part time) of the Recruiting Division or Unit.
- iv) Extra departmental agents of the neighbouring Division or Unit.

Explanation: For Postal Division, the neighbouring Dn. will be the Railway Mail Service Sub- Division and vice-versa.

- v) Nominee of the Employment Exchange. "

7. The manner in which the part time employees are to be regularised is spelt out the circular dated 20.10.84 issued by the P&T Department as under :

"(a) Part-time staff may be employed for certain functions for which ED staaff are not permissible, namely, as Watermen, Malis, Sweepers and Farashes.

(b) Part-time casual labour and full time casual labour may be brought on to a common panel for the purpose of recruitment to Group 'D' posts. According to the present orders, full time casual labourers are eligible for recruitment to Group D posts, if they have put in 240 days of service in each of the preceeding two years and part time workers are eligible if they have put in 240 days of service in each of the preceeding four years. Subject to these orders, the service rendered by part time casual workers may be divided by two and thereafter full time casual workers and part time casual workers may be listed out in the order of their length of service.

8. It is, thus, clear that the cases of the applicants have to be dealt with within the parameters laid down in the aforementioned rules and circulars.

9. In the conspectus of facts and circumstances of the case, the application is disposed of with the following orders and directions :-

(i) The respondents shall carry out a review of the load of work in the areas where part time workers are engaged in accordance with the guidelines contained

in para (d) of the circular dated 20.10.84 and take action for creation of the requisite number of regular posts.

- (ii) Taking the prescribed proportion of the service rendered by the part time workers into account, those eligible shall be granted temporary status with all consequential benefits.
- (ii) The respondents shall draw up a scheme for calling the casual workers in their spare time to upgrade their literary skills to prepare them for the tests. They should be allowed to appear in these tests without any limit. Age relaxation to the extent of service rendered by the casual labourers shall be available to them for regularisation.
- (iii) On clearing the prescribed test, a temporary employee shall be given all the benefits of past continuous service rendered by him as if he had passed the test immediately on becoming eligible.
- (iv) These orders shall be implemented expeditiously and preferably within 3 months from the date of communication of this order.

There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 22/1/83

Member (A)

P.K. Kartha
(P.K. Kartha) 22/1/83

Vice Chairman (J))