

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.399/91

Date of Decision: 11.12.1992.

Shri Vinod Kumar and others

Applicants

versus

Union of India and others

Respondents

Shri E.X. Joseph

Counsel for the applicant

Shri P.P. Khurana

Counsel for the respondents

CORAM:

The Hon'ble Mr. P.K. KARTHA, Vice Chairman(J)

The Hon'ble Mr. B.N. DHOUNDIYAL, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter, or not? *Yes*

JUDGEMENT

(of the Bench delivered by
Hon'ble Member Shri B.N. DHOUNDIYAL)

This OA has been filed under Section 19 of the Administrative Tribunal's Act, 1985, by S/Shri Vinod Kumar, Rohtash Kumar and Raghurwer Dutt, against the policy of engaging casual labour workers for a period of three months only, adopted by the authorities of Sugar Division, Ministry of Food and Civil Supplies.

2. According to the applicants, they were appointed on 19.11.1990 on the basis of nomination by the Employment Exchange and had been working continuously since then. Though they were earlier told that their work was of a permanent nature, they learnt that their services would be terminated after a period of three months on 18.2.91. The main reliefs sought by them are:-

- (i) Grant of orders striking down and quashing the decision to terminate the service of the applicants; *fw*

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- (ii) Grant of orders directing the respondents to continue the applicants in service;
- (iii) Grant of orders directing the respondents to regularise the applicants in the service of respondents No.2 and 3.

3. On 13.2.91, an interim order was passed, directing the respondents, not to dispense with the services of the applicants, by freshly recruited employees. This order continues till date.

4. The respondents have stated that the applicants were engaged as daily waged labourers w.e.f. 19.11.1990 through Employment Exchange, to perform the work on adhoc basis of an occasional nature like opening of wooden boxes, lifting and removing of furniture and other office equipments, lifting and removing of heaters, cleaning of office store for separation of unserviceable items etc. The period of three months refers to the maximum duration, for which engagement of 3 daily waged labourers was approved by the competent authority to complete the work. Since the work for which they were engaged had been completed, it was decided to disengage them w.e.f. 15.2.91.

4. We have heard the arguments put forth by the learned counsel for both parties at the Bar and perused the documents on record. The main contention of the learned counsel for the applicant is that the work is of permanent nature and prior to engaging the applicants, 3 other casual labourers namely S/Shri Balwant Singh, Naresh and Karan Singh were engaged for a period of six months or so. The work consisted of sorting, cataloguing, taking the mail to various sections and officers, opening of sugar sample boxes and carrying files and stationery to Krishi Bhavan and back etc. Instead of sanctioning the posts and appointing employees on regular basis, the respondents have chosen to employ casual labourers. In accordance with the office memorandum dated 26.10.84, the service

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of a casual worker, may be regularised in a group 'D' post, provided inter alia, he has put in 2 years as a casual worker, with 240²⁰⁶ days ⁱⁿ in case of offices working 5 days a week) or more of service as such, during each year. Admittedly, the applicants have not worked for sufficiently long period, to become eligible for regularisation. It was held by a Bench of this Tribunal, of which, one of us (Shri P.K. Kartha) was a party, in the case of Raj Kamal and others Versus Union of India; OA.2306, decided on 16.10.90; 1990(2) SLJ CAT 169, that those who have worked for lesser period should also be considered for absorption, but they will be entitled to wages for the period they actually worked as casual labourers. No fresh engagement of casual labourers against regular vacancies, shall normally be resorted to, before absorbing the surplus casual labourers. It was also held that, for this purpose, they should be considered for continued employment, in any of the vacancies of Group 'D' category, which may be existing in other Ministries/ Departments/Offices of the Government of India, in accordance with the scheme directed to be prepared by the Government.

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

- (a) The respondents are directed to engage the applicants as casual labourers, as long as there is requirement for such work, not only in the Sugar Unit, but other departments of the Ministry of Food and Civil Supplies.
- (b) The respondents are directed not to induct fresh recruits as casual labourers through Employment Exchange or otherwise, overlooking the preferential claims of the applicants. ⁱⁿ

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- (c) The names of the applicants be included in a Live Casual Labour Register and they shall be considered for regularisation, against the vacant posts in Group 'D' cadre, but strictly, in accordance with the Rules and their seniority on the basis of length of service.
- (d) There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 11/12/92
MEMBER(A)

P.K. Kartha
(P.K. KARTHA) 11/12/92
(VICE CHAIRMAN(J)

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