

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 429/91
T.A. No.

199

(4)

DATE OF DECISION 10.2.1992

Shri Moti Lal & Others	Petitioner Applicant
Shri G.D. Bhandari	Advocate for the Petitioner(s) Applicant
Versus	
Union of India through Secy., Miny. of Finance & Another	Respondent
Shri K.C. Mittal	Advocate for the Respondent(s)

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

The Hon'ble Mr. B.B. Dhaundiyal, 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? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal? *Yes*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicants, who have worked as casual labourers in the office of the respondents for several years, are aggrieved by their non-regularisation in Group 'D' posts and the non-grant of regular pay-scales to them. By impugned order dated 30.7.1990, the respondents decided to extend the term of engagement of the applicants only upto 28.2.1991. On 19.2.1991, when the application was admitted, an ex parte interim order was passed directing the respondents not to give effect to the impugned order

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dated 30.7.1990. The stay order was continued thereafter till the case was finally heard on 15.1.1992 and orders reserved thereon.

2. There are nine applicants before us. Applicant No.2 was appointed in 1985. Applicant Nos.1,3,4,5,6 and 7 were appointed in 1986. Applicant Nos.8 and 9 were appointed in 1987. Admittedly, they have worked for more than 240 days in two consecutive years preceding the passing of the impugned order dated 30.7.1990. The respondents had given a technical break on 5.12.1989 in the case of seven applicants and on 27.11.1989, in the case of the remaining two applicants. The plea of the respondents is that there is no vacancy to accommodate all the applicants. There is only one post of Peon vacant w.e.f. 17.11.1990, and that the senior-most person will be regularised in the said post.

3. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. The respondents have not stated in their counter-affidavit as to why the services of the applicants were no more required. They have also not stated that the work and conduct of the applicants were not up to the mark. According to the Administrative Instructions issued by the Department of Personnel & Training, casual labourers who

have worked as such for 240 days in each of two years, are eligible for regularisation in Group 'D' posts. By O.M. dated 7.6.1988, instructions had been issued to all the administrative Ministries/Departments to undertake a review of appointment of casual labourers in their offices and to adjust all casual labourers against regular posts to the extent such regular posts are justified. The case of the casual labourers, whose services were not considered absolutely necessary, were to be dispensed with. The Ministries/Departments were given six months' time to conduct such a review. The applicants before us were continued even after the period of expiry of six months.

4. The applicants have alleged that persons similarly situated have been regularised in different departments and the same treatment is ^{not} being given to them. This has not been denied by the respondents in their counter-affidavit. The ^{applicants} have submitted that after having served for several years in the office of the respondents, they have now become over-aged, and that they cannot look forward to Government employment elsewhere. They have also relied upon numerous decisions* of the Supreme Court, wherein the directions have been issued to Government

* Cases relied upon by the Applicants:

ATLT, 1990 (1) S.C. 527; 1986 (1) S.C.C. 637; AIR 1987 S.C. 2342. *a*

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Departments to regularise casual labourers who have worked for 240 days.

5. The learned counsel for the respondents also brought to our notice during the final hearing of the case that the Department of Personnel & Training have issued O.M. dated 8.4.1991 regarding relaxation in age-limit and sponsorship through Employment Exchange in the cases of casual labourers. According to the said O.M., it has been decided as a one time measure that casual workers recruited before 7.6.1988, may be considered for regular appointment to Group 'D' posts even if they were recruited otherwise than through Employment Exchange and had crossed the age-limit prescribed for the post, provided they are otherwise eligible for appointment in all other respects.

6. The question of regularisation of the services of casual labourers working in the various ministries/departments of the Central Government has been considered by this Tribunal in the two recent judgements - Durga Prasad Tiwari Vs. Union of India, 1990 (3) SLJ, C.A.T. 94, and Raj Kamal & Others Vs. Union of India, 1990 (2) SLJ, C.A.T. 169. In Durga Prasad Tiwari's case, this Tribunal observed that casual labourers who have worked for 2-4 years, should be considered for regularisation of their services. It was further observed that regularisation

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would depend upon the existence of regular Group 'D' posts in the Ministry/Department concerned, and that for this purpose, a Unit of the Ministry/Department, should not be taken in isolation and the Ministry/Department should be taken as a single unit.

7. In the subsequent decision of Raj Kamal and Others, the aforesaid observations were reiterated and the respondents were directed to prepare a rational scheme with a view to regularising casual labourers who have worked for more than 240 days. The following observations made by the Tribunal in Raj Kamal's case, are pertinent:-

".....Since the Department of Personnel and Training is monitoring the implementation of the instructions issued vide O.M. dated 7.6.1988, the Union of India through that Department, should undertake to prepare a suitable scheme for absorbing such casual labourers in various ministries/departments and subordinate and attached offices other than the Ministry of Railways and Ministry of Communications. Their absorption 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 six days/five days week, respectively, in each of the two years prior to 7.6.1988, will have priority over the 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, 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. The fact that some of them may not have been sponsored by the Employment Exchange, should not stand in the way of their absorption. Similarly, they should not be considered ineligible for absorption if, at the time of their initial engagement, they were within the prescribed age-limit." *α*

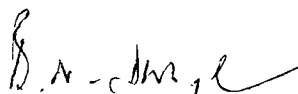
8. In the light of the above and following the decisions of this Tribunal in Durga Prasad Tiwari's case, and Raj Kamal's case, the application is allowed and it is disposed of with the following orders and directions:-

- (i) The interim order passed on 19.2.1991, directing the respondents not to give effect to the impugned order dated 30th July, 1990, is hereby made absolute. The respondents shall accommodate the applicants as casual labourers in the Ministry of Finance till such time they are regularised in regular vacancies in Group 'D' posts in accordance with the relevant instructions issued by the Department of Personnel & Training. For the purpose of their regularisation, the Ministry of Finance and its various departments/offices should be treated as a single unit. In case, no vacancies exist in the Ministry of Finance and the departments/offices falling under it, the applicants shall be considered for regularisation in the vacancies of Group 'D' staff in other ministries/departments/attached/subordinate offices.

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- (ii) For the purpose of regularisation, we direct that the respondents shall give relaxation of the age-limit to the extent necessary in the case of the applicants.
- (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 and Training. After their regularisation, they shall be paid the same pay and allowances as admissible to regular employees belonging to Group 'D' category.
- (v) The respondents shall comply with the above directions within a period of three months from the date of communication of this order.
- (vi) There will be no order as to costs.


(B.N. Dhoundiyal)
Administrative Member


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