

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 911/1991

Date of decision: 04.09.1992.

Shri Lal Chand & Others

Applicants

Vs.

Union of India through the
Secretary, Ministry of
Welfare and Others

Respondents

For the Applicants

Shri M.R.
Bhardwaj, Counsel

For the Respondents

Shri Jog Singh,
Counsel for
Respondent Nos. 1
and 2.

Shri Y.R. Adhyank
Counsel with
Shri Kapil
Sibal, Sr.
Counsel for
Respondent No. 3.

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Shri P.K.
Kartha, Vice Chairman(J))

The applicants who have worked on daily wages basis as Peons, Chowkidars, Staff Car Drivers, Farashes and Safaiwalas in the Minorities Commission under the ministry of Welfare have filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for the



following reliefs:-

(i) To direct the respondents to regularise their services in accordance with the general instructions issued by the Department of Personnel & Training;

(ii) to direct them to pay them pay and allowances as are admissible to regular employees of Group 'D' categories from the dates of their initial appointment on daily wages; and

(iii) on their absorption in Group 'D' posts, they should be assigned appropriate seniority with reference to the dates of their initial appointment on daily wages with consequential benefits in regard to promotion.

2. On 19.4.1991 when the application was admitted, an interim order was passed directing the respondents not to terminate the services of the applicants. The interim order has been continued thereafter till the case was finally heard on 7.8.1992.

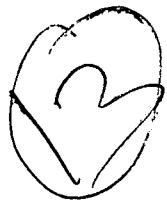
3. The basic case of the applicants is that they were engaged on daily wages basis between the years 1982 and 1988. They have worked for more than 240 days in each of the two years after their engagement without any break in service. They have contended that in accordance with the relevant administrative instructions issued by the Department of Personnel & Training, they are entitled to regularisation and that there are vacancies to accommodate

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them. They have also relied upon the decisions of this Tribunal in Durga Prasad Tewari Vs. U.O.I. & Others, 1990(3) SLJ (CAT) 94 and in Raj Kamal Vs. U.O.I. 1990(2) SLJ (CAT) 169 in which the respondents have been directed to consider regularisation of the casual labourers by treating the Union of India as a single entity for that purpose.

4. The basic stand of the respondents is that the regularisation of the applicants is not automatic but is dependent on the availability of vacancies. The Staff Inspection Unit (SIU) of the Ministry of Finance have recommended the number of posts in Group 'D' category after conducting a Works Study. Some of the applicants have been regularised but some cannot be accommodated for want of vacancies. The respondent No. 3 (The Minorities Commission) have contended in their counter-affidavit that they have no power to create posts and they are entirely dependent on the Ministry of Welfare. They have also stated that the applicants have performed duties of a casual nature.

5. We have gone through the records of the case and have considered the rival contentions. Shri Kapil Sibbal, Sr. Counsel who appeared on behalf of the Minorities Commission fairly stated that the respondents have no complaints about the work and conduct of the applicants. The Minorities Commission will be only happy if the surplus persons ^{are} accommodated in other



Ministries/Departments depending on the availability of vacancies.

6. The applicants have worked for more than 240 days in two consecutive years and they are eligible for regularisation in accordance with the administrative instructions issued by the Department of Personnel & Training. In Raj Kamal's case, mentioned above, this Tribunal has directed the Union of India (Department of Personnel & Training) which is respondent No.2 in the present application, to prepare a suitable scheme to accommodate casual labourers in regular Group 'D' posts depending on the length of service and the availability of vacancies. For the purpose of regularisation it was further directed that the various Ministries/Departments/Attached/Subordinate Offices of the Government of India should be treated as a single unit. This will, however, not apply to the Ministry of Railways and Ministry of Communications which have made separate schemes for regularisation of casual labourers in their departments.

7. In the light of the above, the application is disposed of with the direction to the respondents to accommodate the applicants who have not been regularised as casual labourers in the Ministry of Welfare ^{✓ and the offices thereunder} wherever [✓] vacancies exist^s. In case no vacancies exist in the [✓] [✓]

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Ministry of Welfare and the offices under them, the applicants should be accommodated in other Ministries/ Departments depending on the availability of vacancies in accordance with the scheme to be prepared by Respondent No.2 (Department of Personnel & Training), pursuant to our directions contained in Raj Kamal's case.

8. The interim order passed on 19.4.1991 with the modifications indicated above, shall continue to be in operation in respect of the applicants who have not been regularised. The respondents shall not resort to fresh recruitment of casual labourers till all the applicants are accommodated in regular posts. The respondents shall comply with these directions as expeditiously as possible and preferably within a period of four months from the date of receipt of this order.

There will be no order as to costs.

B.N. Dholiyal
(B.N. DHOUNDIYAL)
MEMBER (A)
04.09.1992

Surana
(P.K. KARTHA)
VICE CHAIRMAN (J)
04.09.1992

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