

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

O.A. 952/91 & O.A. 1351/91

DECIDED ON 19-12-91

Balwant Singh Rawat & Ors. ... Applicants (OA 952/91)

Vs.

Union of India & Ors. ... Respondents

Ram Kishan ... Applicant (OA 1351/91)

Vs.

Union of India & Ors. ... Respondents

Shri A. K. Sinha, Counsel for Applicants

Shri P. H. Ramchandani, Sr. Counsel for Respondents

CORAM : HON'BLE SHRI P. K. KARTHA, VICE CHAIRMAN (J)

HON'BLE SHRI B. N. DHUNDIYAL, MEMBER (A)

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

(By Hon'ble Shri B. N. Dhoundiyal, Member) :

These two OAs have been filed by the casual employees of the National Academy of Central Excise, Customs & Narcotics against their non-confirmation and non-assignment of any work to them after 5.5.1991. OA No. 952/91 has been filed by S/Shri Balwant Singh Rawat, Ram Kewal, Jai Singh, Mohan Lal and Raj Kumar and OA No. 1351/91 by Shri Ram Kishan. As similar facts and legal issues are involved, we proceed to dispose of both the OAs by this common judgment.

2. All the applicants have worked continuously for the Academy for more than the days prescribed for regularisation, i.e., 240 days each year for two years as shown below :-

<u>Name</u>	<u>Date of joining as Casual Labourer</u>	<u>Date of termina- tion of service</u>
1) Shri Balwant Singh Rawat	14.6.1989	3.4.1991
2) Shri Ram Kishan I(SC)	27.3.1989	-do-

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3)	Shri Jai Singh (ST)	2.4.1989	-do-
4)	Shri Mohan Lal (SC)	17.2.1989	-do-
5)	Shri Raj Kumar (SC)	7.2.1989	-do-
6)	Shri Ram Kewal (SC)	19.4.1989	-do-

3. All the applicants were recruited as contingent paid staff on casual labour basis through Employment Exchange in the offices and canteens of the National Academy of Customs, Excise and Narcotics, New Delhi. They were also sent for physical test before being allowed to join duty. The nature of jobs allotted to the applicants were of cooking and maintaining cleanliness in offices and hotels. The applicants possess educational qualification above 7th standard and similarly qualified colleagues junior to them have been given regular jobs (S/Shri Shrawan Kumar and Deep Chand). The respondents had themselves made an assessment and had found that 29 casual workers including the applicants were eligible for regularisation in terms of Department of Personnel and Training O.M. dated 7.6.1988. Though the applicants were engaged on full time basis and have discharged functions of regular nature, they have been denied the benefits of regular employment like dearness allowance etc. The applicants claim that vacancies still exist in the organisation and their services are still required. They have prayed that the impugned orders dated 3.4.1991 terminating their services may be set aside and quashed and the respondents be directed to engage them again against the existing vacancies for the permanent posts of Group 'D' staff in the Academy and the Hotels and to compensate them for the period they were rendered unemployed.

4. The respondents have accepted the facts that all these applicants have been working with them since 1988 and 1989, and in the absence of sanctioned staff, the requirements

of Cooks, Mashalchis, Table Boys/Room Boys, Chowkidars, Sweepers, Farashes and Attendants for Seminar Halls, and Library/Equipment helpers required for running hostels at Mayapuri, Asian Games Village and Pushpa Vihar and for the upkeep of electrical and electronics equipments and teaching aids used for training, were being met by engaging casual workers on contingent basis. In pursuance of the Supreme Court judgment dated 17.1.1986 in the case of Surinder Singh Vs. U.O.I. and instructions of the Department of Personnel and Training vide OM No.49014/2186 Etcc.(C) dated 7.6.1988, the matter was examined and a proposal was sent to the Financial Adviser, Ministry of Finance for the creation of 29 posts of Group 'D' so that the services of the casual workers could be regularised. However, on the recommendation of the Staff Inspection Unit only 20 posts could be retained. The Ministry of Finance agreed to payment to daily wagers only up to 31.3.1991. Therefore, the service of the applicants who were the juniormost were dispensed with. There are two posts of peon in the Academy and the regular Group 'A' staff consists of sepoys of Customs and Central Excise. The applicants have worked only for a few days every month and cannot be said to have worked continuously. The vacancies were filled up strictly on the basis of seniority. As regards employment of two peons as sepoys, this was done by screening all the casual workers and only those who meet the prescribed physical and educational standards were selected.

5. MP No. 2233 in OA No. 952/91 was filed by applicants alleging that despite an interim order issued by this Tribunal, juniors and outsiders were being recruited and three persons junior to them----- had been regularised. 7 posts had newly been sanctioned for the canteen of Asiad Games Village Hostel but these were not filled up as the

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as the canteen was running on contract basis.

6. We have gone through the records of the case and have heard the learned counsel of both parties. In Raj Kamal's case (Raj Kamal & Ors. Vs U.O.I. : 1990(2) CAT/169), it was held that for the purpose of regularisation of casual labourers, the Union of India should be treated as a single unit. The Tribunal also observed that applicants who have worked for more than two years as casual labourers, deserved to be considered for regularisation of their services, ignoring the artificial breaks in their services. This view was reiterated by another Bench of this Tribunal of which one of us (Shri P.K. Kartha) was a member, in case of Nand Kishore & Ors. Vs. Union of India decided on 5.3.1991 (OA.2066/90). Following the ratio of this judgement, the application is disposed of with the following directions:-

(i) The impugned orders of termination dated 3.4.1991 are set aside and quashed. The applicants shall be re-engaged as casual labourers in regular vacancies in the post of Group 'D' arising not only in the National Academy of Central Excise but in the Central Excise Department as a whole, - in their offices in Delhi.

(ii) In case no vacancy exists in the Central Excise & Customs Department, the Ministry of Finance and its subordinate offices will be treated as one unit for this purpose and the applicants shall be reengaged whenever vacancies exist.

(iii) No fresh recruits shall be inducted as casual labourers through the Employment Exchange or otherwise overlooking preferential claim of the applicants. Emoluments to be given to them till their regularisation, should be strictly
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in accordance with the orders and instructions
~~received~~^{issued} by the Department of Personnel and
Training. After their regularisation, they
shall be paid the same pay and allowances as
the regular employees belonging to Group 'D'
category.

7. The interim orders passed in these cases are hereby
made absolute. There will be no order as to costs. *Dr*
Let a copy of this judgment be placed in CA No 1351/81

B.N. Dhoudiyal
(B.N. DHOUDIYAL)
MEMBER (A) 19/12/81

P.K. Kartha
(P.K. KARTHA) 18/12/81
Vice Chairman (J)