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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-1088/91

Date of decision: 22.5.1992

Shri Tilak Ram & Others .... Applicants

Versus

The Employees State .... Respondents  
Insurance Corp. & Anr.

For the Applicants .... Mr. E.X. Joseph, Advocate

For the Respondents .... Shri Vivek Gambhir, Advocate

CORAM:

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

The Hon'ble Mr. I.K. Rasgotra, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgment? *Y*

2. To be referred to the Reporters or not? *N*

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

The six applicants before us are aggrieved by the impugned order dated 25.4.1991 whereby their services were proposed to be terminated w.e.f. 6.5.1991. They have prayed for setting aside and quashing the impugned order dated 25.4.1991 and to direct the respondents to allow them to continue to discharge the duties in the post of Peons. and to regularise their appointment.

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2. On 8.5.1991, the application was admitted. The learned counsel for the applicants stated that there were enough vacancies to accommodate the applicants, and that the respondents were proposing to recruit fresh persons as casual labourers after terminating the services of the applicants. He further drew our attention to the office orders issued by the respondents from time to time whereby the casual labourers had been engaged at a time for a period of 29 days only and reappointed after a technical break. In the circumstances, the Tribunal directed the respondents that they shall not engage fresh persons as casual labourers and preference be given to the applicants, subject to the condition that the work and performance of the applicants have been to their satisfaction. It was further directed that the services of those who were still in service, shall not be terminated. The interim order had thereafter been continued till the case was finally heard on 7.5.1992 and orders reserved on the main application.

3. The versions of the applicants and the respondents as regards the nature of the employment of the applicants are different. According to the applicants, the respondents had sent a requisition to the Employment Exchange and the applicants were duly nominated by the Employment Exchange for appointment as daily-wage Class IV labourers (Peons). They fulfilled the qualifications for such appointment.

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After they were interviewed, they were selected and engaged as daily-wage Peons. They joined duty on different dates from 30.11.1990 to 4.12.1990.

4. The applicants have stated that their services were continued after their engagement by giving them technical breaks in service. According to them, the respondents were taking steps to fill up 15 vacancies which were permanent in nature. The applicants were also asked to appear for the interview. Their contention is that having been sponsored by the Employment Exchange, interviewed and selected for appointment as daily-wage Peons, they should not be subjected to a further process of selection and that they should be regularised in the permanent vacancies on the basis of their interview and selection already held at the time of their initial appointment.

5. The respondents have denied the above averments in their counter-affidavit. According to them, the posts of L.D.C. in their office are required to be filled up by way of open competition, according to Employees State Insurance (Recruitment) Regulations, 1985. The examinations were earlier conducted by them but in 1986, this responsibility was entrusted to the Staff Selection Commission. The S.S.C. would sponsor candidates for the posts of L.D.C. after holding open competitive examination.

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6. In 1990, the E.S.I.C. wanted to fill up certain vacancies in the posts of L.D.C. Accordingly, requisition was sent to the S.S.C. for sponsoring the requisite number of candidates. The S.S.C. could not, however, nominate the persons in time. In the meanwhile, as a stop-gap arrangement, the posts of L.D.C. were filled up on ad hoc basis by promoting the Peons till the direct recruits were made available by the S.S.C. Once the direct recruits become available from the S.S.C., the ad hoc promotees would be reverted to the posts of Peon. As a result of this ad hoc promotions, 15 vacancies arose in Group 'D' posts of Peon out of which 13 belonged to the general category and 2 to the reserved category of S.C./S.T.

7. In order to fill up the vacancies which had resulted, as mentioned above, the Employment Exchange was requested to sponsor the names of about 15 candidates to be engaged as Peons on daily wages for a period of 29 days. The Employment Exchange has two types of procedure for sponsoring candidates, depending on the nature of the appointment being offered by the Department requisitioning candidates from it. If the requisition is for daily-wage casual employees, the Employment Exchange invites applications from persons registered on its rolls who are present on the day in the

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Exchange, irrespective of their date of registration with the Employment Exchange and their names are sponsored to the requisitioning authority. The applicants before us fall in this category. However, if the appointment is to be temporary, ad hoc, or permanent and not casual or on daily-wage basis, the Employment Exchange sponsors names only according to the seniority of a candidate in registering with it, subject to fulfilment of the eligibility qualifications.

8. Pursuant to the requisition sent by the respondents for daily-wage workers, the Employment Exchange forwarded a list of 167 candidates. Since there were only 15 vacancies available, 15 candidates had to be short-listed. For this purpose, the respondents conducted an interview in an informal manner ~~with~~ <sup>2</sup> conducted by ~~the~~ <sup>the</sup> Deputy Regional Director of their office. The standards set for their selection in the said interview, were not so rigid or high. The respondents have contended that this interview cannot be compared with the interview to be held for regular or temporary appointments. They have stated that the Deputy Regional Director was not the interviewing authority in accordance with the recruitment Regulations. For the purpose of appointment to the posts of Peon on a regular basis, the recruitment Regulations provide for an interview to be conducted by a Committee comprising

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the Regional Director, the Deputy Regional Director and an independent person from the office of the Provident Fund Commissioner. The respondents have annexed to their counter-affidavit memorandum dated 28.9.1973, prescribing the constitution of the Selection Committee for regular or temporary appointment to the posts of Peon.

9. The applicants were interviewed and selected not in accordance with the relevant recruitment Regulations, but after an informal interview conducted by the Deputy Regional Director. The applicants were not given any formal letters of appointment. They were also not subjected to medical examination and Police verification which were mandatory for regular appointment.

10. The respondents have admitted that they had sent a requisition to the Employment Exchange for sponsoring names of candidates for appointment of Peons on temporary and regular basis. Pursuant to this, the Employment Exchange sponsored 462 candidates. Thereafter, a Selection Committee, in accordance with the relevant Regulations of the ESIC, conducted interviews from 15.4.1991 to 19.4.91 and decided to select 15 candidates for the posts of Peon on purely temporary and ad hoc basis. The learned counsel for the respondents submitted that out of the 15 candidates so selected, 5 were daily-wage workers who had been appointed

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in the first instance by informal interview. This also includes the name of one of the applicants (Shri Kishan Singh). The Selection Committee has also prepared a panel of 8 candidates who are on the waiting list out of which 4 were daily-wagers who had been appointed in the first instance by informal selection and it also includes the names of the two of the applicants (S/Shri Umesh Chander Pandey and Rajesh Kumar). The learned counsel for the respondents has also placed before us the minutes of the Selection Committee which prepared the above list of candidates and the panel of candidates on the waiting list.

11. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. The learned counsel for the respondents stated that no fresh person has been engaged as a casual labourer after terminating the services of the applicants. The applicants were also interviewed along with other candidates sponsored by the Employment Exchange for the purpose of making appointment to the posts of Peon on temporary and ad hoc basis. Appointment on regular basis is required to be made under the recruitment Regulations after terminating the services of the applicants. The period of engagement of the applicants is roughly only five months. They do not thereby acquire any prescriptive right to appointment on regular basis.

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As the suitability of the applicants was also considered by the regularly constituted Selection Committee, we see no merit in the contentions raised by the applicants that they should be deemed to have been regularised on the basis of their interview and selection at the time of initial appointment. We are satisfied that the earlier requisition sent to the Employment Exchange was for filling up of the posts of Peon as a stop-gap arrangement and that the regular recruitment took place subsequently when the names were sponsored by the Employment Exchange in accordance with seniority of the candidates who were enrolled with them. There is no material on record to substantiate that the second selection was made to deny the applicants continued employment in the office of the respondents. Some of those daily-wage workers who were initially engaged, have found place in the Select List and some in the Waiting List, as already mentioned above.

12. In the light of the foregoing discussion, the ~~Q~~ who have not been selected by the Selection Committee, applicants will have only the limited right of being considered for engagement as casual labourers in case the respondents need the services of the casual labourers and in preference to persons with lesser length of service and outsiders. In case, more regular vacancies arise in Group 'D' category, the respondents should consider the Q

suitability of the applicants also along with other eligible candidates sponsored by the Employment Exchange. The applicants should also be given relaxation in age to the extent of the service put in by them as daily-wage workers in the office of the respondents. The application is disposed of on the above lines. There will be no order as to costs.

*I.K. Rasgotra*  
(I.K. Rasgotra)  
Administrative Member

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