

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2347/2004 with OA 2522/2004

New Delhi, this the 9th day of August, 2005

Hon'ble Shri Shanker Raju, Judicial Member

OA 2347/2004

S/Shri

1. Narendra Kumar, S/o Shri Nathu Ram
2. Rajesh Kumar, S/o Shri Nahar Singh
3. Vijay Kumar, S/o Late Shri Supat Singh
4. Ramesh Chand, S/o Shri Ram Kishan
5. Ashok Kumar, S/o Shri Laxman Singh
6. Ved Pal Singh, S/o Shri Harpal Singh
7. Kamal Singh, S/o Shri Ghamandi Singh
8. Vinod Badola, S/o Late Shri S.P. Badola
9. Gopal, S/o Shri Ram Prasad
10. Girish Chandra, S/o Shri Shiv Dutt.
11. Deep Singh, S/o Shri Mahipal Singh
12. Kalika Prasad, S/o Shri Gopal Prasad
13. Jitender Kumar, S/o Shri Surjeet Singh

...Applicants

(All the applicants are working as casual labour/daily wagers for the work of cleaning/sweeping/waterman on contract basis in the office of Directorate of Revenue Intelligence, 7th floor, I.P. Bhawan, New Delhi.

Address for service: - M.K. Gaur, Advocate
RZ-115/B, Raj Nagar-I
Palam Colony, New Delhi.

(By Advocate Shri M.K. Gaur with Shri U. Srivastava)

V E R S U S

1. Union of India through
The Secretary, Ministry of Finance
Department of Revenue, North Block
New Delhi.
2. The Director General
Directorate of Revenue Intelligence
7th Floor, Drum Shape Building
I.P. Estate, Indraprastha Bhawan
New Delhi.
3. The Assistant Director (Admn)
7th Floor, D Block, I.P. Bhawan
I.P. Estate, New Delhi.

...Respondents

(By Advocate Shri A.K. Singh)

OA 2522/2004

S/Shri

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1. Naresh Kumar, S/o Late Shri Munshi Ram
2. Ajay Kumar, S/o Late Shri Supat Singh
3. Sanjeev Kumar, S/o Shri Karanpal Singh
4. Manjit Singh, S/o Shri Ramu
5. Khajam Singh, S/o Late Shri Abhay Singh
6. Ramesh Kumar, S/o Late Shri Jitley Singh

(All the applicants are working as daily wagers on contract basis in the office of Directorate of Revenue Intelligence, Delhi Zonal Unit, B-4, 6th floor, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi.)

...Applicants

(By Advocate Shri M.K. Gaur with Shri U. Srivastava)

VERSUS

1. Union of India through
The Secretary, Ministry of Finance
Department of Revenue, North Block
New Delhi.
2. The Director General
Directorate of Revenue Intelligence
7th Floor, Drum Shape Building
I.P. Estate, Indraprastha Bhawan
New Delhi.
3. The Additional Director General
Directorate of Revenue Intelligence
Delhi Zonal Unit, B-4, 6th floor
Paryavaran Bhawan, CGO Complex
Lodhi Road, New Delhi – 3.

...Respondents

(By Advocate Shri A.K. Singh)

ORDER (ORAL)

As both the OAs are based on common facts and involve an identical issue of law, are disposed of by this common order.

2. Applicants who had been working on contract basis and are performing the work of sweeper/waterman/cleaning and dusting continuously since 1995 with artificial breaks intermittently challenged the respondents order dated 10.3.2004, where on account of ban on engagement of persons, out sourcing has been done by the respondents.

3. A prayer has been made to continue the applicants in service and consider their regularization as per the extant rules.

4. Learned counsel for the respondents vehemently opposed the contentions. Learned counsel of the applicants, however, has brought

to my notice a decision of the Jaipur Bench of the Tribunal in OA 545/2004 decided on 16.3.2005 – **Ashok Kumar v. Union of India & Ors.**, where the following ratio has been laid down: -

"Learned counsel for the respondents pointed out that the department no longer requires the services of casual labour engaged on contractual basis and since the respondents have been directed not to engage fresh casual labours by letter dated 20.3.2004 issued by the Government of India, Ministry of Finance, New Delhi, they cannot take back the applicant in service and since the applicant was earlier engaged on contract basis and that contract has expired, so he cannot be allowed to continue. In my view the contention raised on behalf of the respondents has no merits because it is not disputed that the applicant has been engaged as casual worker since 1995 and is working till date with the respondents which goes to show that the work of the nature which the applicant is performing is a perennial in nature and is available with the respondents. In the letter dated 10.3.2004, the Department has referred to another letter of the DoPT and impressed upon various offices regarding ban on engagement of recruitment of casual workers on daily wages. The reference is to a letter dated 26.11.2002, issued by the Central Board of Excise & Customs. But the fact remains that applicant is working as a casual worker since 1995. The letter dated 10.3.2004 also provided that the casual workers who are on the rolls of the department and have achieved temporary status, have to be ~~be~~ regulated in accordance with the OM dated 6.6.2002. In this case, the applicant is working since 1995. So, instead of disengaging the services of the applicant, the respondents are expected to explore the possibility to provide him work as per the letter dated 10.3.2004 itself by extending the benefit of the letter dated 6.6.2002 issued by the DoPT. Even otherwise if work and job which the applicant is performing remains available with the respondents, they are directed not to disengage the applicant. However, the request of the applicant for regularization of his service and grant of equal pay for equal work is rejected. The regularization of services of a casual labour is to be done in accordance with the policy and the recruitment rules.

Accordingly, this OA is partly allowed. The respondents are directed not to dispense with the services of the applicant if the work is still available with them and extend him the benefit of the circular dated 6.6.2002, if applicable, as he was in service w.e.f. 1995 onwards. No costs."

5. In the above backdrop, learned counsel for the applicants states that respondents have now finalized the Recruitment Rules and vide Notification dated 8.7.2005 have started a special recruitment drive to fill the backlog vacancies of SC/ST category. Applicants who

belong to the reserved category have a right to be considered and the rest of the candidates falling in the general category would be considered as per the rules supra. The resistance has been made on the ground that only those applicants will be considered for regularization who have been sponsored through Employment Exchange. Learned counsel of the applicants have cited a decision of the DB of Punjab & Haryana High Court in **State of Haryana v. Vikram Singh Mazdoor** where relying upon the decision of the Apex Court in **SI Supdt. Mallika A.P. v. ABND Rao** (1996 (6) SCC 216), it is held that one cannot be denied the appointment on the ground that his name has not sponsored by the Employment Exchange.

6. Having regard to the above, I am of the considered view that non-sponsorship through Employment Exchange would not be an impediment for the applicants in consideration of their claims for regularization.

7. In the result, OAs stand disposed of in terms of the order passed by the Jaipur Bench of the Tribunal supra with directions to the respondents to continue the applicant in service and in the wake of the Recruitment Rules being finalized to consider the cases of the applicants for regularization in terms of Circular dated 6.6.2002.

8. Copy of this order be placed in both the cases.


(Shanker Raju)
Judicial Member

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