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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2784/2004
with OA 2812/2004

New Delhi this the 27th October, 2005

Hon'ble Mrs. Meera Chhibber, Member (J)

OA 2784/2004

1. Raj Kumar Gularia,
S/O Shri Kehar Singh Gularia
2. Krishan Gopal,
S/O Shri Banta Ram
3. Jeewan Singh
S/O Shri Hukam Singh
4. Shri Barinder Singh
S/O Shri Prem Singh
5. Shri Arun Kumar Singh
S/O Shri Adhikari Singh
6. Laxman Singh
S/O Shri Padam Singh
7. Om Prakash
S/O Shri Ram Chander
All are C/O Regional Passport Office
HUDCO TRICOOT-3, Bhikaji Cama
Place, New Delhi.
8. Nihal Singh
S/O Late Keshri,
H.No. 399, Gali No.3,
Bhagat Singh Marg,



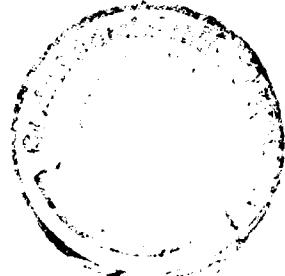
Mohna Road Ballabgarh,
Faridabad (Haryana)

9. Sunil Kumar Phadke,
S/0 Late Krishna Laxman Phadke
H.No.19-D, Block B, DDA S.F.S.
Flats, East of Kailash, Delhi-65
10. Amit Sharma
S/0 Shri Sushil Kumar Sharma,
R/0 19 Ami Chand Khand,
Giri Nagar, Kalkaji,
New Delhi-110019
11. Ms. Shashi Gupta,
D/0 Shri S.P. Gupta,
R/0 B-92, Janata Flats,
Rampura, Delhi-110035
12. Vinay Kumar
S/0 Shri Mukh Lal Das
R/0 E-120 Dilshad Nagar,
Shahdara, New Delhi- 110095.
13. Dhannjay
S/0 Shri Rampal
R/0 A-141, Kidwai Nagar,
New Delhi.
14. Shyam
S/0 Shri Raghbir
R/0 H-77, Type-II.
SJH Staff Quarters,
West Kidwai Nagar,
New Delhi-110023
15. Dhan Singh
S/0 Shri Mahbir Singh



R/0 1262, R.K.Puram, Sector-1,
New Delhi.

16. Rajinder S.Chauhan
S/0 Shri Gokul Singh
R/0 G-52, Nanakpura,
New Delhi.
17. Ashok Badoni
S/0 Shri H.M.Badoni
R/0 B-448, Sewa Nagar,
New Delhi-110003.
18. Bhawan Singh
S/0 Shri Umed Singh
R/0 D-377 Pkt. III
Bindapur DDA Flats, New Delhi.
19. Vishambar Datt
S/0 Shri Hari Ram
R/0 Qr.No. 866,
Sector -1, R.K.Puram, New Delhi.
20. Tara Datt,
S/0 Shri Hari B.Joshi
R/0 Qr. No. 745 Sector-II,
Sadiq Nagar, New Delhi-49
21. Harish Kumar Gehlot,
S/0 Shri R.S. Gehlot,
R/0 B-2/67, Vijay Enclave
Palam - Dabri Road, New Delhi-45
22. Praveen Sharma
S/0 Shri Dharam Singh
1/11173 Subhash Park, Shahdara,
New Delhi-110032



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23. Hari Singh Pal
S/0 Shri Mata Din Pal
93 Scindia Properties Compound
Sarojani Nagar, New Delhi-110023
24. Sushil Kumar Yadav
S/0 Shri Mahavir Singh Yadav
220 Bada Kaila (Pine Par)
Ghaziabad-201001.
25. Yogesh Sharma
S/0 Shri Krishan Sharma,
R/0 D-16, CC Colony,
Rana Pratap Bagh,
New Delhi-110007.
26. Rohtash Kumar
S/0 Shri Daulat Ram
R/0 # 38 Khen Chand Market,
Khanpur Extension, New Delhi.
27. Ravi,
S/0 Shri Dhani Ram,
R/0 K-4/11 Mohan Garden,
Uttam Nagar, New Delhi-110059
28. Pradeep
S/0 Shri Ram Rattan,
R/0 Village & PO Dhansa,
New Delhi-110073
29. Ram Kishore Kalson,
S/0 Shri Daya Ram Kalson
R/0 Z-89 Dayagsir Marg,
Uttam Nagar, New Delhi-110079
30. Gulzari Lal
S/0 Shri Ganga Ram,



R/0 # 16/717 Bapa Nagar,
Military Road, Karol Bagh,
New Delhi-110005

31. Avinash
S/0 Shri Rajinder Singh
R/0 RZ-38/323 Gali No.7,
Geetanjali Park, West Sagar Pur,
New Delhi-110046
32. Jagmohar S. Rawat,
S/0 Shri Maharan Singh Rawat,
R/0 171, Gulmohar Enclave,
DDA Flats, New Delhi-110049
33. Ajay Kumar
S/0 Shri Jai Pal,
R/0 120 Sanjay Camp,
Dakshinpuri, New Delhi-110062

(By Advocate Shri Vikas Mahajan)

..Applicants

VERSUS

1. Union of India
Through its Secretary,
Ministry of External Affairs,
South Block, New Delhi.
2. The Joint Secretary and Chief Passport
Officer, Ministry of External Affairs,
Patiala House, New Delhi.
3. The Regional Passport Officer,
Ministry of External Affairs, HUDCO,



Thicoot -3, Bhikaji Cama Place
R.K.Puram, New Delhi.

..Respondents

(By Advocate Shri Rao Vijay Pal)

OA 2812/2004

1. **Vikas Kumar**
S/0 Shri Padam Singh,
R/0 SH. 13, Shastri Nagar,
Ghaziabad (UP)
2. **Krishan Kumar**
S/0 Shri Chattar Pal Singh,
R/0 Vill.Gopal Pur No. 1 P.S.
Timarpur, P.O. Azadpur, Delhi.
3. **Brij Gopal Giri**
S/0 Shri Dharmpal Giri,
R/0 425, Krishna Nagar (Bagu),
Vijay Nagar- Ghaziabad (UP).
4. **Shivtosh Srivastava**
S/0 Ravinedra Nath Srivastava,
C/0 CGO Complex-1, Hapur Chungi,
Hapur Road, Ghaziabad (UP).
5. **Devender Kumar**
S/0 Shri Deen Dayal,
C/0 CGO Complex-1, Hapur Chungi,
Hapur Road, Ghaziabad (UP).
6. **Jandail Singh**
S/0 Shri Arjun Lal,
R/0 B/12, Chiranjeev Vihar,
Sector-8, Ghaziabad (UP).

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7. Parsoon Malviva
S/0 Late Shri S.C.Malviva,
R/0 R-2/55, Raj Nagar,
Ghaziabad (UP).
8. Kamal Veer Singh
S/0 Shri Ram Singh,
R/0 H.No.166, H. Block
Govind Puram, Ghaziabad (UP)
9. Manoj Kumar
S/0 Late Shri Narottam Dutt,
R.0 SH 22 Shastri Nagar,
Ghaziabad (UP)
10. Sunil Kumar
S/0 Shri Banbari Lal
C/0 CGO Complex-1,
Hapur Chungi, Hapur Road,
Ghaziabad (UP).
11. Lalit Kumar
S/0 Shri Tarachand,
R/0 Vill. Jatshadhpur, PO Inchhapuri,
Distt. Gurgaon (Haryana).
12. Manish Adhikari
S/0 Shri Man Bahadur Adhikari,
R/0 829, Type-II,
Kamla Nehru Nagar, Ghaziabad (UP).
13. Pawan Kumar
S/0 Shri Ram Khiladhi,
R/0 123 Shastri Nagar, Ghaziabad (UP).
14. Manoj Kumar
S/0 Shri Rajender Singh,
R/0 Vill.Mewla Bhati,



PO Chironi, District Loni
Ghaziabad (UP).

15. Naresh Kumar
S/O Shri Mir Singh,
R/O 435, Shastri Nagar Bagu,
Vijay Nagar, Ghaziabad (UP).
16. Harjender Singh
S/O Shri Sardar Bachan Singh,
R/O 93/3 Pilay Quarter Lohia Nagar,
Ghaziabad (UP)

(By Advocate Shri Vikas Mahajan)

..Applicants

VERSUS

1. Union of India through its
Secretary,
Ministry of External Affairs,
South Block, New Delhi.
2. The Joint Secretary and Chief
Passport Officer,
Ministry of External Affairs,
Patiala House, New Delhi
3. The Passport Office, Ghaziabad (UP),
CGO Complex 1, Hapur Chungi,
Hapur Road, Ghaziabd (UP)
Through Passport Officer

(By Advocate Shri Rao Vijay Pal)

..Respondents



ORDER (ORAL)

The aforesaid two OAs were clubbed together as the facts in both the cases are identical in nature, therefore, they are being disposed of by a common order.

2. OA 2784/2004 has been filed by as many as 33 applicants and OA 2812/2004 has been filed as many as 16 applicants. The applicants in OA 2784/2004 have sought the following reliefs:

- (i) directing the respondents to allow the applicants to continue in service without break till the time their services are regularized as Group 'D' employee in the pay scale of Rs. 2550-3000.
- (ii) directing the respondents not to replace the applicants with other freshly appointed casual workers.
- (iii) directing the respondents to grant to the applicants no. 10 to 33 the same scale of pay of Rs. 2550-3000/- with allowances, leave, increments and also the benefit of service conditions as are being paid to applicants no. 1 to 9 or are admissible to regularly appointed group 'D' employees from the date of their initial appointment.
- (iv) directing the respondents to pay arrears of salaries to the applicants no. 10 to 33 calculated at the scale admissible to Group 'D' employee i.e. 2550-3000 w.e.f. the date of their respective appointment.
- (v) Any other relief which this Hon'ble Tribunal may consider fit and proper in the circumstances of the case, may be granted in favour of the applicants.



The relief prayed in OA 2812/2004 is almost the same.

3. It is submitted by the applicants that all of them have been engaged by the Regional Passport Office, New Delhi as casual labourers from time to time starting from the years 1989 to 2000. They have always worked to the entire satisfaction of their superiors that is why their services were extended from time to time and all of them have been working regularly ever since their engagement subject to artificial breaks given by the respondents yet temporary status has been granted to only applicants 1 to 9 in OA 2874/2004 and they are also drawing salary in the pay scale of Rs.2550-3000 while other applicants have neither been granted temporary status nor the salary in the pay scale but they are being paid wages on daily rate basis only.

4. They have stated they are performing the following duties:

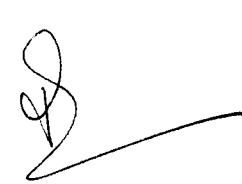
- (i) Date feeding
- (ii) Passport writing
- (iii) Linking of CID report to the file
- (iv) File scanning
- (v) Delivery of passport at the counter
- (vi) Dispatch of letters/passports
- (vii) Photopasting and stamping
- (viii) Any other work which is done in the Regional Passport".

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which are regular duties performed by Group 'C' employees but yet they are being paid the wages of Group 'D' employees only. Thus they are being discriminated against. The work which is done by the applicants is perennial in nature which is apparent from the letters written by the respondents themselves. Respondents had even given assurance to the applicants vide their letter dated 22.3.2003 but nothing concrete was happening, therefore being aggrieved, they resorted to strike. In order to victimize casual labourers or to deter them from raising their legal demands, the Passport office at Ghaziabad temporarily removed Shri Vinod Kumar and Parveen Kumar who are President and Secretary of the Ghaziabad Union. Applicants apprehending that they would also be removed from work and new sets of casual labourers would be engaged by the respondents filed the present OA. Counsel for applicants relied on 1998(9) SCC 595 to state that applicants should get minimum of the scale.

5. Respondents have opposed this OA. They have submitted that those casual labour who were covered under the Scheme dated 10.9.1993 had been granted temporary status. Rest of the people are not granted temporary status as they do not fulfil the conditions of DOP&T OM dated 10.9.1993. They have further submitted that Ministry has been regularizing



the services of casual labourers against the vacant posts of Group 'D' on the basis of zone wise seniority but as on date no Group 'D' post is lying vacant in Passport Office, therefore they cannot be regularized. They have submitted that applicants resorted to illegal agitation by going on strike, dharnas, slogans shouting which caused great inconvenience to the respondents as the work of the Passport Offices was badly affected. Even, otherwise there is no cause of action for the applicants as no order has been passed against the applicants. Therefore, the OAs are misconceived as the applicants 10 to 33 in OA 2784/2004 are paid the wages at the rate of 1/30th of the pay at the minimum pay scale of group 'D' employees i.e. Rs.2550-3000 plus dearness allowance but the persons who are conferred with temporary status get some additional benefits like HRA, CCA, increments and leave etc. which cannot be given to those who are not covered under the Scheme. They have further explained that all the applicants were engaged as casual labourers only to perform the work of Group 'D' employees and they have no right to claim salary at par with either temporary status employees or regular group 'D' employees. OAs are, therefore, misconceived. The same may accordingly be dismissed.



6. When the matter was called out today, counsel for applicants fairly stated that applicants 10 to 33 in OA 2784/2004 and applicants in OA 2812/2004 are not covered under the Scheme dated 10.9.1993 but since they are performing the same duties, they should be given the minimum of the scale as is being given to other casual labourers who have been granted temporary status. He also submitted that they should not be replaced by a new set of employees whereas counsel for respondents submitted that they have some extra work which they are getting done through the casual labourers, in the absence of vacancies. They have even written to DOP&T for taking up their cause but if they continue behaving like this and resort to strikes, slogan, shouting and dharnas etc. it would not be possible to continue the applicants any more. He submitted that respondents had even decided to hold combined departmental examination for educationally qualified regular Group 'D' employees and casual workers in the Central Passport Organization but the same was opposed by regular Group 'D' employees who have probably approached the court, therefore, the said departmental examination had to be postponed.



7. I have heard both the counsel and perused the pleadings as well. From the letters written by the respondents, it is clear that they want to help the applicants and had taken up the matter with DOP&T and Deputy Prime Minister. In fact in the letter dated 22.3.2003 written by Director (PVA), Ministry of External Affairs, it is made clear to the President of Group D employees Association that the existing and anticipated vacant posts of Group D will be filled up by regularizing the eligible casual workers according to zone wise seniority and in accordance with enabling regulations framed under the Department of Personnel and Training and that administration has taken a liberal view not to victimize as one time exception provided the casual workers, who had gone on hunger strike return to their work in time on the next working day and they maintain the dignity and respect the Organization and the Association does not resort to such agitational approach in future. This letter clearly shows bonafides of the respondents that they want to resolve the issue but at the same time want to maintain dignity and discipline in the Organization. Similarly in the letter dated 22.5.2003 addressed to Deputy Prime Minister, it was clearly mentioned that there has been a phenomenal increase in the number of passport applications. Therefore, the volume of work has increased manifold

A handwritten signature, likely belonging to the author of the letter, is written in black ink. The signature is fluid and cursive, appearing to begin with a 'G' or 'S' and ending with a long, sweeping line.

but the staff strength has not been matched by a similar increase. The Central Passport Office is facing shortage of manpower, therefore, in order to provide passport service in a time bound manner, the CPO had engaged casual workers which has been stopped after 2001. At present, out of 441 casual workers in the Central Passport Organization only, 95 have been conferred with temporary status which gives certain benefits to the casual workers. But the said scheme is one time measure and is not an on going Scheme, as a result of which temporary status cannot be granted to those casual labours who are not covered under the Scheme dated 10.9.1993. It was thus recommended that as per their view the only permanent solution to the problem would be regularization of the services of all 441 casual labourers in CPO as a one time measure. Therefore, a request has been made to ensure that DOP&T permits this to be done or alternatively it was suggested that CPO may be allowed to hold a Departmental Exam. for educationally qualified casual workers irrespective of their age to enable them to be absorbed as LDCs as and when vacancy arises and in the meantime grant them immediately temporary status by waiving of the condition of their being sponsored through Employment Exchange so that they become entitled to the benefits such as leave, GPF, counting of 50 % of their



service for pension etc. It was also mentioned in this letter that these casual workers are extremely frustrated and had gone on hunger strike to press for their regularisation. They resumed work on the assurance given by the Secretary concerned in the Ministry that their problems would be looked into with seriousness. Therefore, DOP&T was approached to resolve the problem urgently through regularization of all casual workers of the CPO at the earliest. The contents of above letter clearly show that all efforts were made at the highest level to sort out the problem of casual labour because the Ministry also felt that their requirement was essential to run the Passport Office that is why respondents even issued the letter for holding combined departmental examination for educationally qualified regular Group 'D' employees as well as casual workers but it seems that regular Group 'D' staff have approached the Court due to which departmental examination had to be cancelled. Now that the matter with regard to holding combined departmental examination is the subject matter of the case, before the Court, naturally whatsoever is decided by the said Court ultimately, will have to be followed. Since we do not know what would be the outcome of that litigation no positive directions can be given at this stage on the point of holding combined departmental examination. This point is, therefore, left



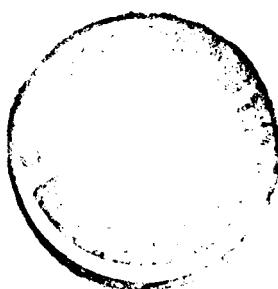
open. However, it is expected that respondents would explain their stand to the court where case has been filed by regular Group 'D' staff. In my view if it is a competitive examination, regular Group 'D' staff cannot have any objection in competing with the casual labourers (who are educationally qualified). However, this should not be taken as a direction because neither that issue is before me nor the Recruitment Rules have been produced before me. I am sure the Court would take into consideration the reasons why policy decision had to be taken for holding combined departmental examination and would pass appropriate orders thereon.

8. From the letters referred to above, one thing is absolutely clear that the requirement of casual workers is very much needed in the CPO. The work being performed by these casual workers is almost the same which is required to be performed by a regular person. It is not the case of the respondents that the work load is reduced. On the contrary, counsel for respondents fairly submitted that they are willing to continue the applicants provided they behave properly and do not indulge in any type of misconduct like slogan, shouting, strike etc. I fully appreciate the concern shown by the counsel for respondents and agree with him. He stated applicants would not be disengaged so long they do not indulge in any type



of misconduct or create a situation where it becomes difficult for the respondents to continue them. This statement fully protects the interests of applicants. However, applicants are cautioned that since respondents have taken up the matter with the DCP&T and are keen to resolve their problems, they should concentrate on the work assigned to them without indulging in strike, slogan shouting etc. so that Organisation may function smoothly. If applicants perform their work as assigned to them they shall not be disengaged or replaced by another set of casual workers, so long work is available provided applicants do not indulge in any misconduct. It is made clear that if applicants indulge in misconduct or create any problems it would be open to the respondents to take appropriate action against them in accordance with law.

9. As far as the prayer made by the applicants that they should be given the minimum of pay scale, the said direction cannot be acceded to at present because they are neither holding any post nor they have been conferred with temporary status under the Scheme dated 10.9.1993. It is an admitted position by the counsel for applicants that applicants are not covered under the Scheme of 10.9.1993. The extra benefits can only be given to those



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casual workers, who are conferred with temporary status under the scheme.

10. It would be relevant to quote the judgment of Hon'ble Supreme Court in the case of **State of Haryana and Anr. Vs. Tilak Raj and Ors** reported in JT 2003(5) SC 544. It was held in the above said case that scale of pay is attached to a definite post whereas a daily wager holds no post. The respondents workers cannot be held to hold any posts to claim even any comparison with the regular and permanent staff for any or all purposes including a claim for equal pay and allowances. To claim a relief on the basis of equality, it is for the claimants to substantiate a clear cut basis of equivalence and a resultant hostile discrimination before becoming eligible to claim rights on par with the other group vis- a- vis an alleged discrimination. 'Equal pay for equal pay' is a concept which requires for its applicability complete and wholesale identity between group of employees claiming identical pay scales and the other group of employees who have already earned such pay scales. The problem about equal pay cannot always be translated into a mathematical formula. In the said case it was further held that casual labour would be entitled to get only minimum wages as prescribed for such workers and not the scale.

11. Since the above judgment is given at a later point of time, the judgment relied upon by counsel would not be relevant. Even otherwise if both the judgments are given by the Division Bench, naturally the judgment which is given on a later date would have precedence over the earlier judgment. Apart from it, in the case of **State of Punjab and Ors Vs. Devinder Singh and Ors** reported in 1998(9) SCC 595 relied upon by applicants, no principle of law has been laid down. It was merely stated that since respondents therein were doing the same duty they should be given the minimum of the scale of the post. But in the subsequent judgment in the case of **State of Haryana and Anr. Vs. Tilak Raj and Ors** the principle of equal pay for equal work was discussed and it was explained why scale of pay cannot be given to casual labour therefore, according to me subsequent judgment would hold the field, on the subject.

12. In the above background if we see the facts of the present case, applicants have not been able to demonstrate that they are on the same platform as those who have been conferred with temporary status nor with the regular employees. The regular employees get running scale because they are appointed against a post to which salary is attached in a particular scale and the temporary status casual labours are given minimum of the

scale with certain benefits because he fulfils the conditions mentioned in the Scheme framed by the Govt. of India whereas applicants admittedly are not even covered under the Scheme dated 10.9.1993. Therefore, by no stretch of imagination it can be said that applicants are on the same platforms as casual labourers with temporary status or regular employees. In these circumstances, their contention that they are being discriminated against, cannot be accepted. The same is accordingly rejected.

13. The applicants can get only one relief that is so long work is available with respondents, they shall continue utilizing the services of applicants without replacing them by a new set of casual labourers. Applicants are warned not to indulge in any misconduct or create situations making it difficult for the respondents to carry out their work in an organized manner. It is made clear if applicants resort to unnecessary dharnas, strike slogan, shouting etc. in future, they would be doing so, at their own risk as in that case it would be open to the respondents to take action against them in accordance with law. I am sure, respondents would continue their efforts to either regularize the applicants or allow them to sit in the combined



departmental examination after getting the appropriate orders from the Court where the matter is already sub judiced.

14. With the above directions/ observations, the aforesaid OAs are disposed of. No order as to costs.

Mrs. Meera Chhibber)
Member (J)

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मान्यता प्राप्त प्राप्ति
CERTIFIED TRUE COPY
मात्र/Date.....

मुख्य अधिकारी/Section Officer
मुख्य अधिकारी कार्यालय
Central Administrative Tribunal
विधायक भवन
नई दिल्ली
नई दिल्ली New Delhi