

Central Administrative Tribunal, Principal Bench

O.A. No.2970/2004

New Delhi this the 22nd September, 2006

**Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)**

**Hon'ble Mr. V.K. Agnihotri, Member (A)**

Yogendra Prasad  
S/o Shri Ram Singh Sharma  
Aged about 40 years  
R/o House No.584/2  
Vijay Park,  
Gali No.1,  
Mojpur,  
Delhi-110 053.

And Employed as

Driver in  
Meerabai Polytechnic,  
Maharani Bagh,  
New Delhi-110 065.

...Applicant

By Advocate: Shri B.B.Raval.

Versus

1. Government of National Territory of Delhi  
Through: The Chief Secretary,  
Old Secretariat,  
Delhi.
2. The Director,  
Directorate of Training and Technical Education,  
Muni Maya Ram Marg,  
Pitampura,  
Delhi-110 085.
3. The Principal,  
Meerabai Polytechnic,  
Maharani Bagh,  
New Delhi-110 065.

...Respondents

By Advocate: Shri Vijay Pandita.

**ORDER**

**By Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)**

The applicant has filed this OA for quashing the order of the respondent dated 5.3.2004, Annexure-A and for directing the respondents to regularise the applicant on the post of Driver with effect from 5.5.1998 with all consequential benefits.

2. The allegations of the applicant in the OA, briefly stated, are that in response to the letter of the Directorate of Training and Technical Education (DTE) dated 12.3.1998 inviting applications for the post of Drivers under Community Polytechnic Centre, the

Employment Exchange sponsored the name of the applicant as a candidate. The applicant was called for interview on 27.3.1998 and was appointed as Driver at Main Centre, Meerabai Polytechnic for a period of 89 days with effect from 5.5.1998 vide order dated 6.5.1998 (Annexure A-3). Later on, by order dated 19.5.1998 issued by the Deputy Director (Admn.) of the DTTE, he was deployed in Meerabai Polytechnic on Mondays, Tuesdays and Wednesdays and in DTTE on Thursdays, Fridays and Saturdays (Annexure A-4). Delhi Subordinate Services Selection Board (DSSSB) of the Government of NCT of Delhi issued an advertisement on 26.11.1999 inviting applications for the post of Driver (LMV) in the College of Pharmacy. The applicant applied for it as he fulfilled the eligibility condition and was also issued the admit card, but the advertised post of Driver was withdrawn and no selection was made. The Principal of Meerabai Polytechnic by letter dated 6.2.2000, requested Director, DTTE, for appointing the applicant as Driver on regular vacancy against the vacant post in Meerabai Polytechnic (Annexure A-8). The applicant also submitted a representation dated 6.4.2000 both to the Principal and also to the Director, DTTE for his appointment on regular basis (Annexure A-9 collectively). DTTE issued a circular dated 12.3.2000 regarding recruitment to the post of Driver (HMV) and Driver (LMV) and in response to the said circular, the applicant submitted his application on 16.3.2001 (Annexure A-11 collectively). The application was forwarded by the Principal, Meerabai Polytechnic to the Officer on Special Duty (TE) for sympathetic consideration. DTTE issued letter dated 13.8.2001 calling 4 candidates named therein to appear for performance test including driving test (Annexure A-13) but the applicant was not called. The applicant has been working as Driver regularly for the last six years with intermittent breaks (only on paper) since even for the day of break he had performed the duty. Meerabai Polytechnic also had a mini bus. The driver of the said bus expired on 3.11.1999. Thereafter as and when required the applicant was operating that mini bus also.

3. It is submitted that the applicant filed OA No. 25259/2001 seeking a direction to the respondents to consider regularization of the service of the applicant as Driver with effect from 5.5.1998 and to grant consequential benefits. It was disposed off vide order dated 9.8.2002 (Annexure A-15). The respondents were directed to consider the case of regularization of the applicant as Driver in the first vacancy of the Driver arising in

department in preference to the claim of anyone else and if he was found fit, he was to be extended all consequential benefits and till such time his case was considered, the service of the applicant was not to be dispensed with. This order was challenged by the DTTE in Civil Writ No. 35 of 2003. It was decided by the Hon'ble Delhi High Court on 15.1.2004 whereby the direction of the Tribunal to the extent that it had directed the respondents to consider the case of the applicant against the first vacancy of the Driver arising in the Department in preference to the claim of anyone else, was set aside. The Hon'ble Court directed to the respondents to consider the case of the applicant for regularisation by passing appropriate orders within 2 months from the date of the receipt of the order as per rules (Annexure A-16). The Joint Secretary (E) of DTTE rejected the case of the applicant by the impugned order dated 5.3.2004 (Annexure-A). The applicant's service was not regularized on the sole ground that he was appointed under the Community Development Scheme (CDS) which was not a permanent Scheme and the post could be abolished and the grant may be stopped at any time. The applicant has submitted that in the case of Shri Sunder Singh Pathania, who was a similarly circumstanced person as the applicant and that said Shri Pathania was appointed as Driver for 89 days in May, 1993 he was regularized as a Driver in 1994 (Annexure A-17). The respondent, as such, adopted double standard because in the case of Shri Pathania they have regularized the service while the claim of the applicant was rejected on the ground that it was purely a temporary/ad hoc and on contract basis under the CDS so could not be regularized. The applicant has pleaded grounds for grant of relief in his favour in para 5 of the OA. It is submitted that the applicant holds a valid driving licence; his name was sponsored by the Employment Exchange in 1997; he qualified the performance and skill test and interview before he was appointed; he was deployed to work for three days in Meerabai Polytechnic and for the remaining three days in DTTE; he was driving light vehicle as well as the heavy motor vehicle of the Polytechnic and the DTTE; he had also been driving mini bus as and when required; he was performing his duties as a Driver wherever he was deployed, satisfactorily; the DSSSB, for the reason best known, withdrew the post of Driver advertised by it after admit card was issued to the applicant and the applicant fulfilled all the eligibility conditions; the case of the applicant for regular appointment as Driver was recommended by the Principal of the Polytechnic; the

applicant was not called for selection against the post of Driver (HMT) and Driver (LMT) circulated on 12.3.2001 although the applicant fulfilled the eligibility condition while the four candidates were called for performance test including driving test; it is settled law that a person who had put in 205/240 days in a calendar year even with intermittent breaks, which is no break in the eyes of law, was to be conferred temporary status followed by regularization as per DOP&T Scheme dated 10.9.1993, so the applicant has a fundamental right to get himself appointed as he discharged his duties for six years to the satisfaction of the authorities and the denial of this would amount to violation of the fundamental right guaranteed under Article 14 and 16 of the Constitution of India; the Hon'ble High Court had directed the respondents to consider the case of the applicant for regularization as per rules but the respondents have rejected the case of the applicant which is non-compliance of the order of the Hon'ble High Court and the memorandum of the DOP&T and; other similarly situated persons have been regularized.

4. The respondents in the counter-reply have repudiated the claim of the applicant for his regular appointment to the post of Driver. It is submitted that before a person could claim regularization he should have been appointed by the Government in accordance with the Recruitment Rules. Quite a few judgments of the Hon'ble Supreme Court were cited in support. As regards DOP&T Scheme issued on 10.9.1993 about conferment of temporary status and regularization in pursuance to the order of the Hon'ble Supreme Court in Union of India and Others Vs. Mohan Pal (2002) Vol.4 SCC 573, it was submitted that it was not an on going Scheme and temporary status could be conferred on temporary employees only on fulfilling the conditions which are continuing in Clause (4) of the Scheme that they should have been on casual employment as on the date of commencement of the Scheme and they should have rendered continuous service of at least 240 days or 205 days in the case of offices having 5 days a week, so the appointment/regularization could not be done de hors the Recruitment Rules.

5. The respondents have further submitted in their counter-reply that the appointment of the applicant was purely on contract basis for 89 days. His selection was also made on contractual basis clearly stipulating that his services could be terminated without serving any notice. The applicant was appointed in Community Polytechnic

Scheme, which is a Scheme of the Ministry of HRD and is a planned scheme and could be discontinued any time by the said Ministry. The applicant cannot be regularized under the Scheme because this is a planned Scheme. The order dated 19.5.1998 clearly stated that the applicant had been appointed under the Community Polytechnic Scheme and Apprenticeship Scheme. The Scheme does not provide for induction of staff on regular basis. The applicant had full knowledge that he was interviewed and selected for the post of Driver under the Community Polytechnic Scheme as would be clear from the interview call letter dated 12.3.198 which has been filed by the applicant. According to the respondents, the post of Driver was a Group 'C' post and the appointment to this grade be made only through DSSSB and not by direct recruitment. The respondents did not have any power to appoint the applicant on regular basis even if his appointment was recommended by the authorities as the Recruitment Rules could not be contravened. The respondents have filed copy of the Recruitment Rules as Annexure R-2. The applicant had submitted his application for appointment to the post of Driver HMV/LMV circulated vide letter dated 12.3.2001 but he could not be considered because he was not a Class-IV employee of the Department (DTTE) and even if he fulfilled the requisite qualification, he could not have been selected and appointed without going through the selection process.

6. In the rejoinder the applicant has controverted the allegations made in the counter-reply and has reiterated his own case.
7. We have heard the learned counsel for the parties and have perused the record.
8. The appointment of the applicant as Driver in 1997 in Community Polytechnic Scheme is not in dispute. The copy of the Scheme has been filed by the respondents as annexure to their counter-reply. A bare look at this Scheme is enough to prove that it is a special scheme of HRD Ministry of the Government of India devised with devout broad objective to provide Community-Institute interface so that the Science and Technology inputs could be transferred to the community through skills training, technology transfer and organization for ensuring that for the rural society a fair share of benefits from the investments in technical education system and thus bringing socio-economic upliftment and improvement of quality of life of rural community and further to sensitize students and faculty of polytechnics towards life problems of the community needing Science and

Technology Inputs. The preface of the Scheme would show that it was to be implemented by the working group on Technical Education of the AICTE with the co-operation of the State Technical Education under the Direct Central Assistance Scheme, which was launched on experimental basis. The Scheme envisaged the Community Polytechnics to act as focal points for Science and Technology applications in rural areas and general self and wage employment. It was not considered as a separate institution but it was a wing attached to the regular polytechnic under the direct Central Assistance Scheme of Ministry of Human Resource Development. The Scheme also prescribed the staff structure and the remuneration/honorarium which was to be paid to those who were deployed under the Scheme. The Scheme provided for employment of the personnel only on contractual basis. The Scheme was not on permanent basis. As such, it was a special temporary Scheme of the Ministry of HRD. This was being executed in various Polytechnics including Meerabai Polytechnic. The applicant was also appointed and was paid a fixed emoluments/honorarium. There is a dispute about the nature of employment of the applicant. The respondents stated that he was appointed on contractual basis. Annexure A-2 is a letter dated 12.3.1998 in which it was stated that the applicant was called to appear for the interview for the post of Driver "under Community Polytechnic Scheme and the present rate of remuneration for the post of Driver under the said Scheme was mentioned at Rs.1500". Annexure A-3 is the appointment letter which showed that the applicant was appointed as Driver at Main Centre, Meerabai Polytechnic, Maharani Bagh under Community Polytechnic Scheme for a period of 89 days with effect from 5.5.1998 on a consolidated pay of Rs.1500/- and that his services were temporary, ad hoc and emergent basis and could be terminated any time without giving him any notice. Annexure A-4 is an office order dated 19.5.1998, which stated that the applicant had been working as Driver on the vehicles of Meerabai Polytechnic under the Community Polytechnic Scheme and Apprenticeship Scheme.

9. The applicant has submitted that he was appointed as Driver under the aforesaid Scheme initially for the period of 89 days and thereafter his term was extended with artificial break since he performed duties even on the break days. Learned counsel for the applicant has strongly objected to the allegations of the respondents that the applicant was appointed on contractual basis. He has drawn our attention to the initial appointment

letter Annexure A-3 by which the applicant was appointed on temporary/ad hoc and emergent basis for a period of 89 days with effect from 5.5.1998 and it was not stated therein that his appointment was on contractual basis.

10. On the other hand, the learned counsel for the respondents has produced the copies of the contract, which showed that the applicant's appointment to the post of Driver under the Community Polytechnic Scheme was on contract basis. Learned counsel for the applicant has pointed out to the endorsement of the stamp vendor on the stamp paper which showed the date of 14.9.1985 as the date of issue of the said stamp. He has submitted that for writing a contract in 1997 the stamp paper could not have been purchased in the year 1985. However, the respondents have filed 5 contract agreements executed on the stamp papers. The second contract bears the endorsement of the stamp vendor showing that it was issued on 10.12.1999. On the third stamp paper the date of issuance of the stamp by the stamp vendor is not legible. On the 4<sup>th</sup> the date given is 7.5.1999 and on the last contract date it is not legible. Counsel for the applicant has vehemently denied that these contracts were signed by the respondents, But we do not find any reason to disbelieve the case of the applicant in view of the provisions of the Scheme under which the applicant was appointed as a Driver. The appointment was made under the Scheme for which the budget was provided by the HRD Ministry. The posts and the remuneration to be paid on contract basis under the Scheme were also prescribed. The Scheme, as such, has provided for engaging the staff on payment of remuneration on contract basis. We, therefore, have no hesitation in holding that the applicant was appointed as Driver under the Community Polytechnic Scheme on contract basis.

11. Even if the contention of the applicant that he was appointed on temporary basis for a period of 89 days at a time with artificial break and that he worked even on the days of the break is believed, still it cannot be disputed that his appointment was not made on a post sanctioned by the Government of NCT of Delhi. The appointment <sup>was</sup> on a post under the Scheme. The Scheme itself was temporary. It could have been terminated or could have been wound up by the HRD Ministry or the post of the Driver could have been abolished by a specific order by the HRD Ministry or by not providing budgetary allocation to meet the expenses. It was the only reason that the applicant was not appointed on any regular pay scale of a Driver. Even the pay scale of the Driver on the

post on which the applicant was working in the Polytechnic or under the DTTE was not given to him and he was drawing his fixed emoluments prescribed under the Scheme by the HRD Ministry.

12. The next question arises whether the services of the applicant could have been regularized on the post of Driver under the Community Polytechnic Scheme? The answer is in the negative since the Scheme itself is a special devised Scheme to serve a specific purpose and has to continue so long as the Ministry of HRD has provided finance for it. The Principals and other personnel of the Polytechnics were executing and implementing the Scheme, therefore, issuing of the orders or letters of appointment or otherwise under the signature of the Principal or other authorities of the DTTE to the applicant or under the Scheme, would not prove that the applicant will become the employee of the Polytechnic or an employee of the Government of NCT of Delhi. The Scheme, the copy of which was available on record, clearly spelt out that the Scheme is to be executed through the Principals and Project Officers of Polytechnics and some remuneration was to be paid under the Scheme. It is thus clear that the post of Driver under the Community Polytechnic Scheme is not a civil post under the DTTE or the Government of NCT of Delhi and as such the applicant would not become an employee of the DTTE or the State Government simply because his services were utilized as a Driver in Meerabai Polytechnic under the Scheme or otherwise in DTTE or even Pharmacy College of the Government of NCT of Delhi. He continued to work under the Scheme as he was holding the post to which he was appointed under the Scheme and was paid for his services.

13. The applicant stated that he had been working to the entire satisfaction of the Principal of the Polytechnic and other authorities of DTTE and he had been plying even the mini bus whose Driver had expired. Utilising the services of the applicant on regular bus of the Polytechnic or the vehicles of the DTTE staff or otherwise would not change the nature of the employment of the applicant. He would not become entitled to the regularization of the post in the DTTE/Government of NCT of Delhi. The applicant had been continued to work under the Scheme and he has been driving vehicle, according to him, of the Polytechnic and DTTE and the Principal and other authorities have recommended him for sympathetic consideration for his regular appointment. But that by



itself, as observed above, would not give a legal right to the applicant to be appointed on regular post de hors the Recruitment Rules.

14. It will also be pertinent here to mention that the appointment of the applicant under the Community Polytechnic Scheme was not under any Recruitment Rule. In fact, there is no Recruitment Rule for the post of Driver or others under the Scheme, therefore, selection of the applicant from the open market or from the employment exchange would not entitle the applicant to be regularized on a post which itself is not a regular post.

15. The learned counsel for the applicant has submitted that the DTTE had issued a circular on 12.3.2000 for recruitment to the post of Driver (HMT) and Driver (LMT) and the applicant has also submitted his application through the Polytechnic but he was not called for interview although he was eligible to the post. He has annexed the circular as Annexure A-10. The respondents in their reply have clarified that the vacancies were to be filled up by promotion from amongst Class IV employees of the DTTE and since the applicant was not a regular employee of DTTE, therefore, he was not eligible for selection and was not called for interview. The circular which has been filed by the applicant as Annexure A-10, clearly stated "this department proposes to fill up some vacant posts of Driver (HMT) and Driver (LMT) by promotion from amongst the Class-IV employees of this Directorate, having valid driving license of HMT, LMT". The Principals of Polytechnic and College of Pharmacy etc. were asked to circulate the letter amongst Class-IV employees of their institution and send the applications of the desirous Class IV employees in the prescribed pro-forma. This letter clearly shows that only regular Government employees working in the Directorate of DTTE and its units and Branches were eligible for promotion to the post of Drivers. Outsiders were not eligible. Therefore, the contention of the applicant that his candidature was arbitrarily or mala fide excluded, to our view, is not correct.

16. The applicant has also contended that DSSSB had also advertised a post of Driver in College of Pharmacy in November, 1999 for which he was eligible and had also submitted his application. He was issued the admit card also but when result of the advertised post, which included the post of Driver also, was published, the note appended stated that the said post of Driver advertised by the College of Pharmacy had been withdrawn. The applicant does not get any right for selection to the post of Driver when

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the Government had cancelled the selection or withdrawn the post. Even if the applicant was selected he did not get any indefeasible right to the appointment to the post (See Union of India and Others VS. N.R. Banerjee and Others, 1997 (1) SLR 751).

17. The next contention of the applicant is that there is a discrimination between him and Shri Sunder Singh Pathania in 1993 who was initially appointed to a Class IV post in Community Polytechnic Scheme but in 1994 he was selected and appointed against a regular vacancy of Driver under DTTE. Great deal of arguments were advanced on this point. The respondents in their counter have stated that Shri Pathania was initially appointed as a Chowkidar and that he applied for and selected against regular vacancy of a Driver in DTTE. Learned counsel for the respondents has stated that the post of Driver is now a Group 'C' post and that the appointment to Group 'C' post could be made in Government of NCT of Delhi only through DSSSB and not directly. It is submitted that in 1994 selection it was not the position. The DSSSB was established much later, therefore, in 1994 it was possible for the Directorate of DTTE to appoint Shri Pathania as a regular Driver in a direct recruitment but it was no more possible for it to appoint somebody on a Group 'C' post by-passing DSSSB.

18. Another contention of the applicant was that the applicant was entitled to be considered for conferment of temporary status followed by regularization of service under the DOP&T's Scheme dated 10.9.1993 which was formulated in accordance with the directions of the Hon'ble Supreme Court since he had worked for more than 205/240 days in a calendar year. The respondents have denied that the applicant was eligible to be considered against the said Scheme because he was not working as a casual worker and secondly it was a one time scheme, the benefit of which was to be given to a category of a casual employee and the Scheme was not contemplated to be continuous. The learned counsel for the applicant was aggrieved that the applicant who had been working for such a long time is not being given a regular appointment although he was discharging his duties to the full satisfaction of the authorities of Polytechnic and the DTTE. It may be true that the applicant had been working since long but he had full knowledge of the Scheme under which he was offered the appointment. He had accepted the appointment. He could be appointed to a regular post only in accordance with the Recruitment Rules and not de hors of it. There is no Recruitment Rule for the persons engaged in

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Community Polytechnic Scheme. The employment of the applicant on a civilian post in DTTE or the Meerabai Polytechnics of the Government of NCT of Delhi can be only by following a due selection process under by the Recruitment Rules. Drivers' post in Government being a Group 'C' post the selection has to be made through the DSSSB. The respondents, therefore, despite their being sympathetic to the plight of the applicant may find it difficult to provide a regular employment to the applicant under the Scheme or in the Polytechnic or in the DTTE.

19. Recently the five Judges Bench of the Hon'ble Supreme Court in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, 2006 (4) SCALE has held as under:-

12. What is sought to be pitted against this approach, is the so called equity arising out of giving of temporary employment or engagement on daily wages and the continuance of such persons in the engaged work for a certain length of time. Such considerations can have only a limited role to play, when every qualified citizen has a right to apply for appointment, the adoption of the concept of rule of law and the scheme of the Constitution for appointment to posts. It cannot also be forgotten that it is not the role of courts to ignore, encourage or approve appointments made or engagements given outside the constitutional scheme. In effect, orders based on such sentiments or approach would result in perpetuating illegalities and in the jettisoning of the scheme of public employment adopted by us while adopting the Constitution. The approving of such acts also results in depriving many of their opportunity to compete for public employment. We have, therefore, to consider the question objectively and based on the constitutional and statutory provisions. In this context, we have also to bear in mind the exposition of law by a Constitution Bench in State of Punjab Vs. Jagdip Singh & Ors. (1964 (4) SCR 964). It was held therein, "In our opinion, where a Government servant has no right to a post or to a particular status, though an authority under the Government acting beyond its competence had purported to give that person a status which it was not entitled to give, he will not in law be deemed to have been validly appointed to the post or given the particular status."

13. During the course of the arguments, various orders of courts either interim or final were brought to our notice. The purport of those orders more or less was the issue of directions for continuation or absorption without referring to the legal position obtaining. Learned counsel for the State of Karnataka submitted that chaos has been created by such orders without reference to legal principles and it is time that this Court settled the law once for all so that in case the court finds that such orders should not be made, the courts, especially, the High Courts would be precluded from issuing such directions or passing such orders. The submission of learned counsel for the respondents based on the various orders passed by the High Court or by the Government pursuant to the directions of Court also highlights the need for settling the law by this Court. The bypassing of the constitutional scheme cannot be perpetuated by the passing of orders without dealing with and deciding the validity of such orders on the touchstone of constitutionality. While approaching the questions falling for our decision, it is necessary to bear this in mind and to bring about certainty in the matter of public employment. The argument on behalf of some of the respondents is that this Court having once directed regularization in the Dharwad case (supra), all those appointed temporarily at any point of time would be entitled to be regularized since otherwise it would be discrimination between those similarly situated and in that view, all appointments made on daily wages, temporarily or contractually,

must be directed to be regularized. Acceptance of this argument would mean that appointments made otherwise than by a regular process of selection would become the order of the day completely jettisoning the constitutional scheme of appointment. This argument also highlights the need for this Court to formally lay down the law on the question and ensure certainty in dealings relating to public employment. The very divergence in approach in this Court, the so-called equitable approach made in some, as against those decisions which have insisted on the rules being followed, also justifies a firm decision by this Court one way or the other. It is necessary to put an end to uncertainty and clarify the legal position emerging from the constitutional scheme, leaving the High Courts to follow necessarily, the law thus laid down.

43. Normally, what is sought for by such temporary employees when they approach the court, is the issue of a writ of mandamus directing the employer, the State or its instrumentalities, to absorb them in permanent service or to allow them to continue. In this context, the question arises whether a mandamus could be issued in favour of such persons. At this juncture, it will be proper to refer to the decision of the Constitution Bench of this Court in *Dr. Rai Shivendra Bahadur Vs. The Governing Body of the Nalanda College* [(1962) Supp. 2 SCR 144]. That case arose out of a refusal to promote the writ petitioner therein as the Principal of a college. This Court held that in order that a mandamus may issue to compel the authorities to do something, it must be shown that the statute imposes a legal duty on the authority and the aggrieved party had a legal right under the statute or rule to enforce it. This classical position continues and a mandamus could not be issued in favour of the employees directing the government to make them permanent since the employees cannot show that they have an enforceable legal right to be permanently absorbed or that the State has a legal duty to make them permanent.

45. It is also clarified that those decisions which run counter to the principle settled in this decision, or in which directions running counter to what we have held herein, will stand denuded of their status as precedents.

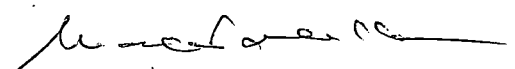
47. Coming to Civil Appeal Nos. 1861-2063 of 2001, in view of our conclusion on the questions referred to, no relief can be granted, that too to an indeterminate number of members of the association. These appointments or engagements were also made in the teeth of directions of the Government not to make such appointments and it is impermissible to recognize such appointments made in the teeth of directions issued by the Government in that regard. We have also held that they are not legally entitled to any such relief. Granting of the relief claimed would mean paying a premium for defiance and insubordination by those concerned who engaged these persons against the interdict in that behalf. Thus, on the whole, the appellants in these appeals are found to be not entitled to any relief. These appeals have, therefore, to be dismissed.

20. The Principle of Law enunciated by the Hon'ble Supreme Court when applied to the facts of the present case will render the claim of the applicant in the present case unsustainable in law.

21. Accordingly, the OA has no merit and the same is dismissed leaving the parties to bear their own costs.



(V.K. Aghnihotri)  
Member (A)



(M.A. Khan)  
Vice Chairman (J)