

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

(11)

O. As No. 223, 884, 1601, 2246 & 2418 of 1992

New Delhi, this the 10th day of February, 1994.

HON'BLE MR JUSTICE S.K.DHAON, VICE CHAIRMAN
HON'BLE MR B.N.DHOUNDIYAL, MEMBER(A).

O.A.No.223 of 1992

1. Vinod Kumar
S/O Shri Raman Singh
R/O F-25, Transit Camp,
Khichari Pur,
Delhi.
2. Ram Kumar
S/O Shri Ratan Singh,
RZ-139, X - Block-II,
New Roshan Pura, Najafgarh,
New Delhi.
3. Yash Pal Singh
S/O Shri Devi Singh,
WZ-288, Vil. & P.O.Naraina,
New Delhi.
4. Parmod Kumar
S/O Shri Bijli Singh
No. 421, Sewa Nagar,
New Delhi.
5. Narendra Paswan,
B-50, Naharpur, Sector 7,
Rohini, Delhi. Applicants.
(through S.N. Shukla, Advocate).

O.A.No.884/1992

1. Sewak Ram,
S/O Shri Hari Ram
R/O G-195, Sector 10,
Faridabad(Haryana).
2. Suresh Kumar
S/O Shri Om Parkash
R/O Village Sidipur Lowa
P.O. Bahadur Garh,
District Rohtak(Haryana).
3. Nand Kumar
S/O Shri Vishal Chand
R/O S 27/B-303, Railway Colony,
Gughlakabad,
New Delhi. Applicants.
(through S.N. Shukla, Advocate).

vs.

1. The Chairman, Central Water Commission,
Govt. of India, Ministry of Water Resources,
Sewa Bhawan, Sector I, R.K.Puram, New Delhi.

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2. The Executive Engineer (C.S.D.),
Central Store Division,
Central Water Commission,
West Block No.1, Wing No.4,
2nd Floor, R.K.Puram, New Delhi Respondents.
(in both above O.As.)

(through Mr Jog Singh, Advocate).

O.A.No.1601 of 1992

Shri Rajesh Kumar Saini
s/o Shri Veer Sain Saini
Workcharged Khallas
under Executive Engineer
Central Stores Division
Central Water Commission
West Block No.1, Wing No.4,
2nd Floor, R.K.Puram,
New Delhi. Applicant.

(through B.S.Mainee, Advocate).

O.A.No.2246 of 1992

Shri Jayant Kumar Pathak,
S/O Shri Kusheshwar Pathak,
Assistant Electrician,
Central Stores Divn., Central
Water Commission, West Block 1,
Wing No.4, 2nd Floor, R.K.Puram
New Delhi. Applicant.

(through B.S.Mainee, Advocate).

O.A.2418 of 1992

1. Shri Rajender Sharma
S/O Shri Bhagwan Sharma
Carpenter, Central Stores Divn.,
Central Water Commission,
West Block No.1, Wing No.4,
2nd Floor, R.K.Puram,
New Delhi.

2. Shri Raju Kashyap, S/O
Shri Nikka Ram;

3. Shri Daya Ram S/O Ganga Ram.

4. Shri Dali Singh S/O Bhup Singh.

5. Shri Giri Raj S/O Mishri Singh

6. Shri Bijendra S/O Total Ram.

7. Shri Ram Kumar Rai S/O Hardev Rai.

8. Shri Udai Kumar S/O Sh.Kurukul.

Applicants 2 to 8 working in Central Stores Divn.,
Central Water Commission, R.K.Puram, New Delhi.

..... Applicants.

(through B.S.Mainee, Advocate).

vs.

1. The Secretary, Ministry of Water Resources
Shram Shakti Bhawan, New Delhi.

2. The Chairman, Central Water Commission
Sewa Bhawan, R.K.Puram, New Delhi.

3. The Executive Engineer, Central Stores Divn.,
Central Water Commission, R.K.Puram, New Delhi.

..... Respondents

(in all three above O.As.).

(through Mr Jog Singh in 1601 and 2246/92 and
through Mr P.P.Khurana in O.A.No.2418 of 1992).

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ORDERB.N.DHOUNDIYAL, MEMBER(A)

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The applicants, in all the above-mentioned O.As have been working as Khalasis, Carpenters, Mistries, Motor Mechanics, Drivers and Electricians under the Executive Engineer, Central Water Commission, R.K. Puram, New Delhi. One of them, Shri Jayant Kumar Pathak, was engaged as Casual Labourer on 2.1.1987 but claims to have been working against the post of regular electrician w.e.f.7.12.1987. The date of engagement of the applicants ranges between 1.10.1982 to 5.9.1988 in case of O.A.No.223/92, between 15.4.1986 to 26.10.1987 in case of O.A.No.884/92, between 6.1.1987 to 7.9.1990 in case of O.A.No.2418/92. Shri Rajesh Kumar Saini(applicant in O.A.No.1501/92) was engaged on 19.9.1988 and Shri Jayant Kumar Pathak(applicant in O.A.No.2246/92) was engaged on 2.1.1987. In some of the O.As, prayer has been made for issuance of a direction to the respondents to prepare a scheme on rational basis for absorption of Casual Labourers and for not disengaging the applicants till such a Scheme is prepared. In all the cases, interim orders were passed by this Tribunal, restraining the respondents from terminating the services of all the applicants. They are continuing till date.

2. In the counter filed by the respondents, the main averments are these. The appointments were made for specific projects and in the appointment orders, it was clearly mentioned that these are purely on ad hoc basis and will not lead to any claim for any permanent employment. They have worked in broken periods and many of them have not completed 240 days of service in two consecutive years. The rules

provide for appointment of Khalasis by direct recruitment through selection by a selection committee of which the Executive Engineer is the Chairman. The posts of Casual Khalasis etc. are provided in the working estimates for a definite period and the services of these workers are terminated after that period. In case of Jayant Kumar Pathak (O.A.No.2246/92), it has been stated that the applicant was appointed as an adhoc work-charged Khalasi from 3.8.1987 and later on he was offered appointment as Assistant Electrician on ad hoc basis at minimum fixed basic pay of Rs.1100/- . However, this appointment was for a specific period, though with breaks, the applicant continued to work against vacancies in different works. They have, however, admitted that during the years 1989 to 1991, he worked for more than 240 days in all the three years.

3. We have gone through the records of the case and heard the learned counsel for the parties.

Shri B. S. Maine, learned counsel for the applicants has drawn our attention to the following observations made by the Hon'ble Supreme Court in case of State of Haryana and others vs. Pura Singh and others, 1992(3) Vol.45 S.C.R.34:

"The proper course would be that each State prepares a scheme, if one is not already in vogue, for regularisation of such employees consistent with its reservation policy and if a scheme is already framed, the same may be made, consistent with our observations herein so as to reduce avoidable litigation in this behalf. If and when such person is regularised he should be placed immediately below the last regularly appointed employee in that category, class or service, as the case may be.

So far as the work-charged employees and casual labour are concerned, the effort must

be to regularise them as far as possible and as clearly as possible subject to their fulfilling the qualifications, if any, prescribed for the post and subject also to availability of work. If a casual labourer is continued for a fairly long spell - say two or three years - a presumption may arise that there is regular need for his services. In such a situation, it becomes obligatory for the concerned authority to examine the feasibility of his regularisation. While doing so, the authorities ought to adopt a positive approach coupled with an empathy for the person...."

4. As the applicants have been working for a long period, through intermittently, their cases have to be considered in light of the above observations of the Hon'ble Supreme Court as also directions issued by the Government from time to time. It may be noted that in accordance with these directions, a special Scheme for regularisation of the Casual Labourers have been prepared by the Railways, Post and Telegraphs and other Departments. In the circumstances of this case, we dispose of these applications, with the following directions:

(i) the respondents shall prepare a scheme for retention and regularisation of the Casual Labourers employed by them. This scheme should take into account the regular posts, that can be created, taking into account the fact that even if a particular scheme is completed, new schemes are launched every year. An assessment of the regular posts that can be created on this basis should be made. For regularisation, all those, who have completed 240 days service in two consecutive years, should be given priority in accordance with their length of service;

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(ii) Those, who have completed 120 days of service should be given temporary status in accordance with the instructions issued by the department of personnel from time to time. After completion of the required period of service, they should be considered for regularisation;

(iii) Adhoc/temporary employees should not be replaced by other ad hoc/temporary employees and should be retained in preference to their juniors and outsiders.

(iv) Such a scheme shall be submitted by the respondents for scrutiny of this Tribunal within a period of three months from the date of communication of this order by the petitioner to them.

5. There shall be no order as to costs.

B.N.Dhundiyal
(B.N.Dhundiyal)
Member(A)

S.K.Dhaon
(S.K.Dhaon)
Vice Chairman

/sds/