

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. TA 23/1991 with OA 2365/92 Date of decision: 27/10/1993.
W.P. No. 484/1991

(1) TA 23/1991

Shri Charan Singh & Others ... Petitioners

Versus

Union of India & Others ... Respondents

(2) OA 2365/1992

Shri Pati Ram & Others ... Petitioners

Versus

Union of India & Others ... Respondents

For the Petitioners ... Shri Naresh Kaushik,
Counsel

For the Respondents ... Shri B.K. Aggarwal,
Counsel

CORAM:

THE HON'BLE MR. JUSTICE S.K. DHAON, VICE CHAIRMAN
THE HON'BLE MR. P.T. THIRUVENGADAM, MEMBER (A)

JUDGMENT (ORAL)
(of the Bench delivered by Hon'ble Mr.
P.T. Thiruvengadam, Member (A))

> TA 23/1991 with Writ Petition No. 484/1991
was filed by Shri Charan Singh in the Supreme Court
of India praying for issue of appropriate writ or writs
including:-

(a) A writ of Mandamus directing the respondents
to absorb the petitioners on regular basis after proper
screening with effect from the date of screening and
absorption of their similarly situated colleagues in
the same division and other divisions.

(b) Prohibit the respondents from transferring
the petitioners to another division without their

screening and absorption.

(c) Issue such other writs, directions or orders as are deemed fit and necessary in the interest of justice.

The Supreme Court vide its order dated 09.05.1991 transferred the above petition to Central Administrative Tribunal, Delhi for being dealt with there in accordance with law. Accordingly, the writ petition was transferred as OA 23/1991.

2. OA 2365/1992 has been filed by Shri Pati Ram and others praying for a direction that "the petitioners may be absorbed after holding proper screening with effect from the date of screening and absorption of similarly situated colleagues in the same division and other divisions with all consequential benefits."

3. Since the issues raised and reliefs claimed are similar, it would be convenient to dispose of the Transferred Application and the Original Application by a common order.

4. The petitioners are working as casual labour employees in the Construction Organisation of the Northern Railway under the Chief Administrative Officer.

They have been granted temporary status as and when they became eligible for the same. It is the case of the petitioners that even though their turn for screening for regular absorption ⁱⁿ of Group 'D' has arisen, they have not been considered for such screening. Reference is made to the minutes of the meeting held by Chief Personnel Officer (Industrial Relations) Northern Railway on 14.09.1990 wherein a decision was taken that open line casual labour and project/construction casual labour both will be combined under their combined seniority. Lists will be prepared depending upon the number of working days put in, even in broken spells, separately for each department/each category for the purpose of screening, was taken. The petitioners contend that despite such a decision, the concerned Divisions,

namely, Moradabad and Ambala have gone ahead with the screening of open line casual labour with regard to the vacancies that had arisen.

5. In the counter-affidavit filed by the respondents administration it has been admitted that each Open Line Division has to be treated as an independent unit and within each division, every department has to be treated as independent sub-unit for maintaining the categorywise seniority lists of project casual labour. It has also been stated that the action for giving benefit of screening to casual labour of Construction Department of Engineering Branch as per their seniority has since been completed.

Screening of open line casual labour staff along with similarly casual labour staff of Construction Department had been processed based on the combined seniority, a list has been made. Since the petitioners are engaged in the Construction Organisation whose Headquarters happens to be Ambala, they were being considered for absorption against vacancies in Ambala Division and they will have no claim in getting absorbed in other Divisions. During arguments, the learned counsel for the respondents mentioned that screening list has not been released though the process has more or less been completed.

6. In view of the above averment, no further directions are required except that the claim of Construction Organisation casual labour should be considered if not already done at the time of screening along with the open line casual labour by preparing an integrated seniority list.

7. The issue regarding transfer of casual labour was not specifically pressed by the 1d. counsel for the petitioners. However, it was made clear by the respondents that the petitioners cannot protest against any transfers within the Division in whose jurisdiction they had been originally recruited. For

the purpose of engagement and disengagement, the integrated seniority list of open line and construction casual labour would be followed properly. In case due to want of work within the Division they ^{are} ~~divisions~~ engaged in other Construction Organisation as casual labour under the control of Chief Administrative Officer, Construction, this would not take away their claim for final absorption against regular vacancies in the open line Division ~~and~~ where they were recruited. This would, however, be subject to seniority they had attained by working in that Division only.

8. With regard to petitioners in OA 2605/1992 respondents had raised the issue regarding jurisdiction. It has been pleaded that the petitioners are residents of U.P. and are also working at Moradabad (U.P.). Hence the O.A. cannot be entertained by the Principal Bench of the Central Administrative Tribunal. It has to be noted that a similar issue in TA 23/1991 has been specifically transferred to CAT, Delhi, for being dealt with. Also as per Rule 6 of the CAT(Procedure) Rules, 1987 an application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction the cause of action, wholly or in part has arisen. The 1d. counsel for the petitioners mentioned that the office of the Chief Administrative Officer, Construction is situated in Delhi has the power to direct screening, transfer etc. of the petitioners and that the petitioners are seeking necessary directions against this respondent amongst others. We agree that the cause of action at least partly has arisen with the Chief Administrative Officer Construction which is situated at Delhi and hence the O.A. is within the jurisdiction of this Bench.

9. For the reasons as above, the only direction that is to be given is that for the purpose of screening of casual labourers for regularisation against Group 'D' posts, the petitioners will be considered along with open line casual labour of the Division in which the petitioners were originally recruited. The screening which is said to have been taken place at the time of filing of the O.A. should ~~take~~ ^{be completed and announced} into consideration the seniority of the petitioners, if not already done. The screening may be done expeditiously within a period of 3 months from the date of receipt of this order.

10. With these directions, the T.A. and O.A. are disposed of. No costs.

(P.T. THIRUVENGADAM)
MEMBER (A)
27.10.1993

(S.K. JHAON)
VICE CHAIRMAN
27.10.1993

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Attested true copy
Anil Kumar
Co. CII