

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA.292/92

Date of Decision: 13.11.92

Shri Anand Singh and others

Applicants

Versus

Union of India and another

Respondents

Shri Jog Singh

Counsel for the applicants

Shri M.I. Verma

Counsel for the respondents

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THE HON'BLE VICE CHAIRMAN(J) SHRI P.K. KARTHA

THE HON'BLE MEMBER(A) SHRI B.N. DHOUNDIYAL

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*

2. To be referred to the Reporter, or not? *Yes*

JUDGEMENT

(of the Bench delivered by
Hon'ble Member Shri B.N. DHOUNDIYAL)

This OA has been filed by 14 Group 'D' employees, working on temporary basis in the Ministry of External Affairs. They are aggrieved by the impugned order dated 31.1.92, terminating their services as Casual Labourers w.e.f. 4.2.92.

2. The applicants fulfilled the education and other eligibility criteria required for regular Group 'D'/Class-IV employees and after being selected by the respondents, were appointed as Watermen/Casual Labourers vide order dated 15.4.90. Though the initial engagement was for a period of six months, their terms were extended from time to time, till the passing of the impugned order, whereby their services were to be terminated w.e.f. 4.2.92. *BN*

3. On 4.2.92, an interim order was passed by this Tribunal directing the respondents not to disengage the applicants as Casual Labourers for a period of 14 days. This interim order has been extended from time to time.

4. The respondents have contended that the application is time barred under Section 20 and 21 of the Administrative Tribunal's Act, 1985. A plea that the applicants have never held any civil post has also been raised. The applicants were engaged for a specific purpose, namely for filling Water in Coolers, for which, no educational qualification is essential. Due to Gulf crisis, their term was extended on daily wage basis during Winter of 1991 and they were again engaged for water filling in coolers during the Summer season of 1991. As their services were no longer required, they were given a notice of termination of their services on 1.11.91, though the termination was to become effective from 3.2.92.

5. We have gone through the records of the case and heard the learned counsel for both parties. The learned counsel for the applicant has relied on the Judgement given by this Tribunal in OA 1724/88, decided on 1.2.91 (Shri Ramesh Mhato and Others Versus Union of India and Another), in which one of us (Shri P.K. Kartha) was a party. On the other hand, the learned counsel for the respondents have raised the point that when applications were invited from daily wagers for regular appointment, the present applicants failed to apply and that the Casual Labourers working in the Ministry are given preference as and when any substantive vacancy arises in Group 'D' posts. Even those with period of service longer than that of applicants are still waiting for their turn for want of vacancies.

6. The question of regularisation of casual labourers working in various Ministries/Departments of the Central Government has been adjudicated by this Tribunal and the Supreme Court in a number of cases and schemes for absorption of casual labourers ^{by} have been prepared by

various Ministries/Departments in pursuance of their directions. It has been decided that the absorption of casual labourers should be on the basis of total number of days worked by the persons concerned. Those who have worked for 240 days/206 days (in case of offices working 6 days/5 days a week respectively) in each of the two years, will have priority over others in regard to absorption. Those who have worked for lesser period should also be considered for absorption, but they will be entitled to wages for the periods they actually worked as casual labourers. No fresh engagement of casual labourers against regular vacancy shall be resorted to, before absorbing the surplus casual labourers. In Raj Kamal and others Versus Union of India; 1990(2) SJ (CAT) 175, it was, however, observed that a rational scheme should be prepared, which should be applicable to all the Ministries/Departments of the Government of India, where separate specific schemes have not been prepared.

6. In the light of the above, the application is disposed of, with the following findings, orders and directions:-

(i) The respondents are directed to consider the question of regularisation of the applicants in Group 'D' posts in any of the vacancies arising in the Ministry of External Affairs and its offices at Delhi. In case, no vacancies exists in the Ministry of External Affairs and its offices at Delhi, they should be adjusted against the vacancies of Group 'D' staff in other Ministries/Departments/attached/subordinate offices of the Central Government, as in our view, the Union of India is a single legal entity though it functions in various Ministries/Departments.

(ii) Till the applicants are regularised as directed in (i) above, they shall be retained as casual labourers in the office of the respondents. The respondents are also further directed not to induct fresh recruits as casual labourers through Employment Exchange or otherwise, overlooking the preferential claims of the applicants. *bw*

(iii) The emoluments to be given to the applicants till their regularisation should be strictly in accordance with the orders and instructions issued by the Department of Personnel and Training. After regularisation they should be paid the same pay and allowances as regular employees belonging to Group 'D' category.

(iv) The ~~impugned~~ ^{Interim} order passed on 4.2.92 is hereby made absolute.

(v) There will be no order as to costs.

B.N. Dhoondiyal
(B.N. DHOUNDIYAL) 13/4/92
MEMBER(A)

P.K. KARTHA
(P.K. KARTHA)
VICE CHAIRMAN(J)
13/4/92

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