

Central Administrative Tribunal, Principal Bench

O.A.No.3179/92

✓ O.A.No.3181/92

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 4th day of February, 1997

(8)

O.A.No.3179/92:

Shri Balbir Singh
s/o Shri Raja Singh
aged 40 years
formerly working as labourer in
the office of the G.E.(P)
MES Air Force
Sirsa and
resident of Vill. Dani Khawali Post
Chambal Punjwana
Distt. Sirsa. ... Applicant

(By Shri V.P.Gupta, Advocate)

Vs.

1. Union of India through
the Secretary
Ministry of Defence
South Block, DHQ P.O.
New Delhi - 110 011.
2. The Engineer-in-Chief
Army Headquarters
Kashmere House
DHQ P.O.
New Delhi - 110 001.
3. Garrison Engineer(P)
Military Engineering Service
Air Force
Sirsa(Haryana). ... Respondents

(By Shri B.Lall, Advocate)

O.A.No.3181/92:

Shri Udmi Ram
s/o Shri Parkha Ram
aged 47 years
ex-labourer in the office of
G.E.(P) M>E.S. Air Force Sirsa
r/o Vill. & P.O.Kharekan
Tel & Distt. Sirsa(Haryana). ... Applicant

(By Shri V.P.Gupta, Advocate)

vs.

1. Union of India through
the Secretary
Ministry of Defence
South Block, DHQ P.O.
New Delhi - 110 011.

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2. The Engineer-in-Chief
Army Headquarters
Kashmere House
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New Delhi - 110 001.

3. Garrison Engineer(P)
Military Engineering Service
Air Force
Sirsa(Haryana).

... Respondents

(By Shri B.Lall, Advocate)

O R D E R (Oral)

Both the OAs are being heard together since the issues involved are similar.

2. The applicants seek implementation of Engineer-in-Chief letter No.A/20060/1004/EIC(4) dated 8.2.1988 (Annexure A1) which provides for employment of Casual/Muster Roll employees of daily wages. Para 3 thereof reads as follows:

"The cut-off date from where we have to stop consideration of daily wagers/muster roll employees for employment as fresh recruits will be 1.4.1985. Those daily wages employees who have completed 180 days in each year beginning from 1.4.1985 might be considered eligible for induction as fresh recruits against regular vacancies after passing the requisite trade tests and provided they are within the prescribed age limits and were sponsored through the employment exchange at the time of their initial appointment on muster roll."

3. The case of the applicant is that they had been engaged on casual basis from time to time by the respondents. They were also called for interview in pursuance of instructions at Annexure A1 quoted above. However, they were not brought on the penal for regular appointment on the ground that they were not eligible.

4. Respondents in their reply state that the applicants were not considered eligible as their ad hoc employment was during the period prior to 1.4.1985 and in terms of para 3

Or

quoted above, the instructions A1 were applicable to those who were employed on daily wages and had completed 180 days employment after that cut off date.

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5. I have heard the learned counsel on both sides. A plain reading of para 3 does not bring out that the said casual employees who were employed with the respondents prior to 1.4.1985 are not eligible to obtain the benefit of the scheme. The words used are that "cut of date from where we have to stop considerations will be 1.4.1985". That would normally mean that employees who are engaged on casual basis after the cut-off date will not be eligible. The second line of this paragraph stating that "daily wage employees who have completed 180 days in each year beginning from 1.4.1985 may be considered eligible....." would mean that a part from those who were employed prior to that cut-off date, the ones who came later would also be considered provided they had completed 180 days.

6. The learned counsel for the applicant has also pointed out that the respondents have examined the eligibility of the applicants and only thereafter had issued the Telegram for interview. The applicants had also been duly interviewed. There should have been no occasion for the respondents to summon the applicants in case only those who were engaged after 1.4.1985 were to be considered.

7. The learned counsel for the respondents submitted that as per para 2(b) of the instructions the candidates sponsored by Employment Exchange as well as concerned daily wagger employees will be trade tested together. Thus only such of the daily wagers were to be considered, who were in employment at that point of time.

8. I have carefully considered the arguments on both sides and find that the applicants have rightly pointed out that the para 3 of the instructions does not state that casual wagers employed prior to 1.4.1985 are to be excluded and hence they are eligible. The respondents had also on that basis called the applicants for interview. In the circumstances they had to be considered along with those of the casual wagers who had worked after 1.4.1985 and had completed 180 days for employment. The applications are therefore, allowed. The respondents are directed to consider the applicants for regular employment in terms of instructions at Annexure A1 within three months from the date of receipt of a copy of this order. In case any age relaxation is required due to their earlier non-consideration, they will be given such age relaxation. No costs.


(R.K. AHOOJA)
MEMBER(A)

/rao/