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Centrl Administrative Tribunal
Principal Bench, New Delhi

O.A. No.1853/93

M.P. No. 2447/93

10th day of December, 1993

Hon'ble Mr. J.P. Sharma, Member (J)

Hon'ble Mr. P.T. Thiruvengadam, Member (A)

1. Pati Ram
S/O Shri Yogeshwar Prasad
2. Pramod Kumar
S/o Shri Baldev Singh
3. Om Prakash Paswan,
S/o Bilas Paswan
4. Ramesh Chand
S/o Shri Roop Narain Sharma
5. Pradeep Singh Negi
S/O Shri Jai Pal Singh Negi Applicants

All residents of RZ-24, Gadwali ka Makan,
Indra Park, Palam Colony,
New Delhi-45.

By Advocate: Shri V.P. Sharma

VERSUS

1. Union of India, through
Secretary,
Ministry of Industry,
Udyog Bhavan, New Delhi.
2. The Chief Controller of Accounts,
Ministry of Industry,
Room No.111, 1st Floor, Nirman Bhavan
New Delhi.
3. Deputy Controller of Accounts,
Ministry of Industry,
Room No.619-C, Shastri Bhavan,
New Delhi. Respondents

By Advocate: Shri M.L. Verma

ORDER (Oral)

(By Hon'ble Mr. J.P. Sharma, Member (J))

The case of the applicants is that they are
working on casual basis in the Pay & Accounts Office,

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of Ministry of Industry but they have not since been regularised in their appointment in spite of notification dated 8.6.88 issued by the Department of Personnel & Training, 'Casual Labour (Grant of Temporary Status and Regularisation) Scheme, Govt. of India, 1991.

2. A notice was issued to the respondents to file their reply and during the course of arguments the learned counsel for the respondents has given copy of an O.M. dated 7.12.93 by which all the applicants in the present application have been called for interview to fill up one post of Peon in the Calcutta office of the respondents. The learned counsel for the respondents has also filed a chart showing details of the working days of the applicant. It goes to show that the applicants No. 1 to 3 were initially engaged in July 1989 and the applicants 4 and 5 were initially engaged from August 1990. All these applicants have worked for a number of days in each of the years till 1993. The applicant No.1, Pati Ram, has put in 1298 work-days from July 1989 till 31.8.93 in different spells. Similarly Pramod Kumar and Om Prakash have also put in same number of work-days during the same period. The applicants No.4 and 5 have put in 521 and 640 work-days from August 1990 till August 1993. Further, this chart goes to show that all these applicants have, in different spells, put in mre than 206 work-days^{in a year}. For applicants No.1 to 3 we have taken into account the number of work-

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days put in 1990-91 and for applicants 4 and 5 we have taken into account the number of work-days put in 1993. Thus by virtue of the Scheme issued by the DOPT referred to above, the applicants are entitled to temporary status.

3. The relief claimed by all the applicants is that they should be considered for regularisation on Group 'D' post in accordance with the Scheme of 8.6.88 and October 1984 on the basis of length of service they have put in. The respondents in their reply to the OA in para 4.3 have stated that there is no existing vacant post of Group 'D' and also no work on casual nature for keeping the applicants engaged is available with them. It is also stated that no casual labourers after 31.8.93 have been engaged by them.

4. The applicants have not filed rejoinder to the above reply. Having considered the contentions of the learned counsels for the parties, it is obvious that the applicants have been working on casual basis since 1989/1990 with the respondents and they have also completed the minimum requirement of 206 work-days in a year, as referred to above. The applicants have, therefore acquired temporary status but at the same time their engagement can be on the vacancies either of a casual nature or any group 'D' post. If there is no vacancy available then the applicants cannot claim to be engaged in spite of having put in the required number of work-days in different spells. The claim of the applicants only arises

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when a person with lesser standard^{ing} or a person who is new to the respondents having not worked earlier is engaged which will amount to discrimination against the applicants. The ratio of the case of State of Haryana Vs. Pyara Singh reported in AIR (1992 Vol.V JT page 179) has to be followed by the respondents in giving casual appointment to the applicants and regularisation of their services when Group 'D' posts exist with them.

5. In view of the facts and circumstances of the case, the application is disposed of with the directions to the respondents to consider engagement of the applicants in preference to those who have put in lesser number of work-days and also consider them along with freshers but giving them preference over ~~the~~ them (freshers). If and when vacancies exist and if the applicants are fulfilling the requisite conditions, they may also be considered for regularisation. The parties are left to bear their own costs.

P. T. Thiruvengadam

(P.T. Thiruvengadam)
Member (A)

J. P. Sharma

(J.P. Sharma)
Member (J)