

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.520/93

New Delhi this the 14th day of September, 1998.

HON'BLE MR. N. SAHU, MEMBER (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. C.P.W.D. Karamchari Union (Regd.),
through its General Secretary,
Sewa Kendra, C.P.W.D.,
Aram Bagh Paharganj,
New Delhi.

2. Sh. Hukum Chand, S/o Sh. Balbir,
Seva Kendra, C.P.W.D.,
Aram Bagh, Paharganj,
New Delhi.

...Applicants

(By Advocate Shri Naresh Kaushik with Shri Hukum Chand,
President of C.P.W.D. Karamchari Union)

-VERSUS-

1. Union of India through
its Secretary,
Ministry of Urban Development,
Nirman Bhavan,
New Delhi.

2. Director General of Works,
C.P.W.D. Nirman Bhavan,
New Delhi.

3. Union of India,
through its Secretary,
Ministry of Finance,
North Block,
New Delhi.

...Respondents


(By Advocate - None)

O R D E R (ORAL)

Hon'ble Mr. N. Sahu, Member (A):

This O.A. filed on 23.2.1993 by the union and its President Shri Hukum Chand claims regularisation of its members. It is submitted that the recruitment and regularisation of the members of the union are governed by the provisions of the C.P.W.D. Manual. At paragraph 4.3 of the O.A. it is stated that the muster roll employees alone should be considered for direct recruitment on completion of two years of continuous service, i. e., 240 days in each consecutive year. Statutory instructions were issued to

regulate the service conditions of muster roll employees. The applicants state that in the categories of Beldars, Peons, Wiremen, Motor Lorry Drivers, Malies, Pump Operators etc. they have been continued for a long period of time. Their grievance is that they have been discriminated and deprived of service benefit which they are entitled to as muster roll staff. The learned counsel for the applicants has drawn our attention to the decision of the Hon'ble Supreme Court in Surinder Singh and Others (W.P. No.563-70/83). The Supreme Court observed that Government will take appropriate action to regularise services of all the daily rated workers who have put in continuous employment for more than six months. The respondents have stated that the observations of the Supreme Court are not in the nature of directions because the Supreme Court used the following words: "We hope that the Government will take appropriate action to regularise the services of all those who have been in continuous employment for more than six months." At paragraph-9 of the O.A. it is submitted that in 1988 the Department of Personnel and Training issued directions to C.P.W.D. to regularise the services of all those workmen who have worked for a period of more than six months. Finding that there was no response on behalf of the Government in spite of the DOPT's directions distributed to various branches of the C.P.W.D., 91 members from the applicants' union have filed Writ Petition before the Hon'ble Supreme Court. The Hon'ble Supreme Court positively directed that the petitioners should be regularised. Our attention has been drawn to the decision of the Hon'ble Supreme Court in Bhagwati Devi vs. Union of India (AIR 1990 SC 371) wherein on the facts of that case the Supreme Court directed that the petitioners are entitled to equal pay at par with the persons appointed on regular basis to the similar posts or discharge

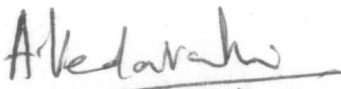


similar duties and are entitled to the scale of pay and all allowances revised from time to time for the said posts. The 91 employees who agitated the matter before the Supreme Court have been regularised on different dates but no steps have been taken to regularise the other employees of the union. Again the employees approached the Supreme Court but the Supreme Court directed them to either approach the Tribunal or the High Court. It is in the above background that the applicants have come before us. This is an application filed by 690 members of the union. We are informed by the learned counsel on instructions from the President of the union that the respondents have not clarified or enlightened the members about the development of the case so far - how many posts have been filled up since then, how many are vacant to be filled up, what are the prospects of their regularisation, what are the odds faced by the respondents?


2. Unfortunately, we have only the applicants' counsel who is present before us repeatedly and none for the respondents has represented before us in spite of several opportunities. We have, however, the counter on behalf of the respondents. In the counter the respondents never denied that the applicants could be regularised in due course. They stated that 8,982 posts were sanctioned and over a period of time regularisation all over the country had taken place. They have filed Annexure R-1 containing a list of 338 employees who have already been regularised. The respondents state that every effort is being made by them to regularise the others in accordance with the availability of vacancies. They have also referred to the ban. Our handicap is that five years have passed since the OA has been filed and as virtually the latest developments are not before us, we are not in a

position to give any positive direction to the respondents. We make it very clear that the observations of the Supreme Court must be given full weight and the respondents cannot dilute their responsibility on this ground that what the Supreme Court has stated is only an advisory observation and not a direction. However, on listening to the learned counsel on the position of the case it would be appropriate if we close this OA with a direction that the representatives of the employee union shall, within a period of four weeks, submit a fresh representation before the respondents stating the number of persons that have been regularised so far and the members that are remaining to be regularised, mentioning names, details and the period of work, whereupon we direct the respondents, who within a period of 10 weeks thereafter shall consider, discuss with the employees and dispose of this representation in a self-contained speaking order, stating how many have been regularised so far and how many are going to be regularised in the course of this year or next year and what their future prospects are in a manner that should be intelligible to the members of the union. We hereby give further liberty to the applicants to move this Tribunal again if they find that their grievances have not been met.

3. The O.A. is disposed of as above. No costs.


(DR. A. VEDAVALLI)
MEMBER (J)

Sanju


(N. SAHU)
MEMBER (A)