

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Allahabad : Dated this 21st day of November, 1997

Original Application No.531 of 1996

Distt : Kanpur

CORAM :-

Honble Mr. D. S. Bawaria, A.M.

1. Hari Shanker Mishra, son of Sri Dal Bahadur Mishra Resident of 4/274, Gaushala Ranighat Purana, Kanpur.
2. Raj Kumar son of Sri Bhaya Lal, Resident of Village Ram Singh Ka Purwa, P. O. Bheemsen, Distt Kanpur.
3. Raj Narayan, son of Sri Chhedi Lal Sahu, Resident of House No.11/79, Gwaltoli Makhbara, Chauraha, Kanpur.
4. Kamlesh Kumar son of Late Sri Nandanar Singh Resident of 5/423, Nawabganj, Purana Kanpur.
5. Shiv Datt son of Sri Ram Autar Kushwaha, Resident of Village and Post Office Manauli, Distt Kanpur Dehat.
6. Rijwan Ahmad, son of Sri Mahmood Ahmad Resident of 330/14, Rail Bazar, Chhawani, Kanpur.
7. Rajesh Kumar Kushwaha Son of Sri Munna Lal Kushwaha, Resident of 115/158, Maswanpurgan P. O. Rawatpur, Distt Kanpur.
8. Sadan Chand Son of Sri Shiv Gupta, Resident of Village Chhatmala, P. O. Tilsahari, District Kanpur.
9. Brahma Prakash Son of Sri Sardar Sahu, Resident of Village Ishwarganj, P. O. Udayapur, District Kanpur Nagar.
10. Ramesh son of Sri Shankar Lal, Resident of 75/5, Chungi Colony, Tagore Road, Kanpur.

(By Sri AK Banerjee, Advocate)

..... Applicants

Versus

1. Union of India through A.G.'s Branch, Army Headquarters, DHQ PO New Delhi.
2. The Air Officer Commanding-in-Chief, Headquarters Maintenance Indian Air Force Vayu Sena Nagar, Manpur-440007.
3. Commanding Officer 7 Air Force Hospital, Kanpur.

(By Sri NB Singh, Advocate) Respondents

ORDER

By Hon'ble Mr. D.S. Baweja, A.M.

This application has been jointly filed by 10 applicants seeking the reliefs as under :-

- (a) To direct the respondents to re-engage the applicant giving preference over others on the basis of previous working of the applicants.
- (b) To direct the respondents to disburse the wages for the period from 1-8-1994 to 30-4-1994 with the interest @ 18% per annum.
- (c) To warn the respondents not to involve themselves in unfair labour practice.

2. The applicants were engaged as Casual Anti-Malaria Laskar after being sponsored through the Employment Exchange during the Malaria Season of 1994 from 1-8-1994 to 31-10-1994 under the respondent no.3 i.e. the Commanding Officer, No.7 Air Force Hospital, Kanpur. For the Malaria Season of 1995, the respondents issued a notification during January, 1995, calling for sponsoring of names of 13 new faces for the job of Casual Anti-Malaria Laskar from the Employment Exchange. When the applicants checked the position in May, 1995, ~~that~~ 13 new faces had been engaged as Anti-Malaria Laskar on casual basis, ignoring the applicants who had worked earlier during the year, 1994. In the next season for the year, 1996, the respondents again called for 13 ^{new} faces for engagement from 1-5-1996 without considering the names of the applicants. Being aggrieved by this, the present application has been filed on 30-4-1996.

3. The main contention of the applicants is that since they had been engaged in 1994 as Casual Anti-Malaria Laskar, they deserved to be re-engaged in the subsequent years in preference to the new faces sponsored by the

Employment Exchange.

4. The applicants have also submitted that they have filed the OA No. 1622/1994 in the name of Hari Shanker Mishra and Ors. Vs. UOI & Ors seeking proper assignment of seniority and absorption in regular cadre. This OA is still pending for final order.

5. The respondents have contested the application through the counter reply filed by respondent no. 3. The respondents have admitted the engagement of the applicants on casual basis as Anti Malaria Laskar during 1994 from 1-8-1994 to 31-10-1994. The respondents have further submitted that for the Malaria Season of 1995 from 1-5-1995 to 31-10-1995, a demand was placed on the Employment Exchange for sponsoring 13 names for engagement as Anti-Malaria Laskar. However, Air Headquarters as per letter dated 16-12-1994, which was received through Headquarters Maintenance Command by letter dated 12-1-1995, it was directed that the notional seniority list of the Seasonal Anti-Malaria Laskars who had been earlier engaged and discharged in the previous years, should be prepared for the purposes of reengagement. In view of this, the demand placed on Employment Exchange was cancelled vide letter dated 2-2-1995. As per the directions of the Air Headquarters, a notional seniority list of the Anti-Malaria Laskars who had worked on casual basis from 1992 to 1994 was prepared. Based on this seniority list, engagement of Anti-Malaria Laskar on casual basis was done for the season from 1-5-1995 to 31-10-1995. Similar action was taken for the Malaria Season of 1996 and the engagement was done as per the notional seniority list prepared. Since the applicants were engaged in 1994 only, they were much junior in the seniority list and thus not entitled to be considered

for ~~again~~^{re} engagement. In view of these facts, the respondents contend that the claim of the applicants does not sustain. As regards payment for the period from 1-8-1994 to 31-10-1994, the respondents ^{have} submitted that due to shortage of budget, the payment could not be arranged immediately. However, subsequently, the payment was arranged and the applicants were advised both verbally as well as in writing through letter dated 16-3-1995 (C4-6) to collect their payments. ^{but} The applicants have not collected the same.

6. The applicant, ~~have~~ filed a rejoinder reply. The applicants ~~have~~ reiterated the contentions made in the OA. As regards the cancellation of the notification calling for sponsoring of names from the Employment Exchange and re-engagement of Anti-Malaria Laskar ^{based} on the notional seniority, the applicants have submitted that they had no knowledge about the same. The applicant, ~~have~~ also contended that if the notional seniority list had been prepared, the respondents should have come forward to place the same on record with the counter reply.

7. I have heard Shri AK Banerjee, learned counsel for the applicants and Km S adhna Srivastava, briefholder to Shri NB Singh, counsel for the respondents. The material brought on record has also been perused.

8. From the averments made by the applicant, the main grievance is that the respondents have engaged fresh faces as Anti-Malaria Laskar during the years 1995-~~96~~^{and 1996} by getting names sponsored from the Employment Exchange in preference ~~to~~ ^{to the applicants' interests} the fact that they had been engaged during 1994. As indicated above, the respondents have clarified the position stating that the notification issued to the Employment Exchange in

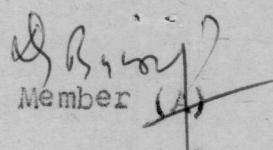
1995 for sponsoring the names ~~must~~ ^{was} be drawn subsequently and re-engagement was done based on the notional seniority list prepared of those Anti Malaria Laskars, who had worked during the year from 1992 to 1994. The same action was taken during the year 1996. Thus, it is quite clear that no new faces ~~are~~ ^{were} engaged during the years 1995-~~96~~ ^{and 1996} as Anti-Malaria Laskars. The applicants in their rejoinder affidavit have expressed their ignorance about these facts ~~which~~ ^{and it} is quite apparent that the applicants have filed the present OA without checking the factual position and, therefore, the application is misconceived. The claim of the applicants no longer sustains. As regards the contention of the applicants that the notional seniority list has not been brought on record, I am unable to find any force in this contention. The respondents have stated that the seniority list has been prepared and based on that re-engagement had been done. In case the applicants are aggrieved by the re-engagement based on this seniority list, they can challenge the matter afresh but cannot seek any intervention with regard to the seniority list. in the present application

9. The contention of the applicants with regard to the claim for non-payment of the wages for the period from 1-8-1994 to 31-10-1994, is also not tenable in view of the materials brought on record by the respondents. The letter dated 16-10-1995 (CA-6) establishes the contention of the respondents that the applicants were advised to collect the payment but the same had not been ~~drawn~~ ^{taken}. During the hearing, the learned counsel for the respondents stated that the respondents are still ready to make payments and

the applicants can contact the concerned office for getting the payment.

9. Keeping in view ~~this~~ ^{above}, the applicants may contact the office of respondent no. 3 and the respondent no. 3 shall arrange to make payment of the wages for the period under reference within one month from the date of receipt of the copy of the order.

10. In the result of the above, I find no merit in the application with regard to the relief for re-engagement as Anti-Malari Laskar. With regard to the payment of wages, the respondents will arrange payment as per the directions given above. The application is disposed of accordingly with no order as to costs.


Member

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