

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 28th day of May 2001.

original Application no. 225 of 2001.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member.

1. Vikram Singh, S/o Sh. Sabu Lal,
R/o village & P.O. Kakuan Malpura,
Agra.
2. Bishamber Singh, S/o Sh. Babu Lal,
R/o Village Khera Baghaur PO Mankhera,
Agra.
3. Jogandra Singh, S/o Sh. Mangal Singh,
R/o Mirja Murad PO Malpura,
Agra.
4. Ranveer Singh, S/o Sh Hari Singh,
R/o Vill Mankhera PO Malpura, Agra.
5. Bhoj Ram S/o Sh Dal Chand,
R/o Vill Kalyanpur, PO Khanauli,
Agra.
6. Gulab Singh, S/o Sh. Allahaden,
R/o Vill Gymaha Takth Pahalwan,
Agra.
7. Siya Ram, S/o Sh. Ram Babu,
R/o Vill Lalau PO Mankhera,
Agra.

... Applicants

C/As Shri A. Rajendra

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Versus

1. Air Officer, Air Headquarter,
Vayu Bhawan, New Delhi.
2. Air Officer Commanding,
Air Force Station,
Agra.
3. Group Captain (C. Adm. O),
Air Force Station,
Agra.

... Respondents

C/Rs Shri A. Mohiley

O R D E R (Oral)

Hon'ble Mr. S.K.I. Naqvi, Member-J.

Shri Vikram Singh and 7 others have come up through this OA under section 19 of the A.T. Act, 1985 seeking relief to the effect that the respondents be directed to give continuous engagement to the applicants as seasonal Anti Malaria Lascar as per their scheme and also not to call the fresh candidates from the Employment Exchange to be engaged as Seasonal Anti Malaria Lascar.

2. As per applicants case they worked as Seasonal Anti Malaria Lascar at Air Force Station Agra as per details given in para 4.2 of the OA. According to which Vikram Singh worked during the years 1991, 1992, 1999 and 2000, Bishamber Singh, worked during the year 1990, 1992, 1999 & 2000, Jugandra Singh worked during the year 1994, 1995, 1996, 1999 & 2000, Ranveer Singh worked during the year, 1993, 1999 & 2000, Bhoj Ran

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worked during the year 1999 & 2000, Uma Shanker, remained engaged during the year 1993, 1999 & 2000, Gulab Singh worked during the year 1991, 1995, 1996 & 2000 and Siya Ram, worked during the year 1991, 1995, 1996, 1999 & 2000. The applicants have reckoned the period of their engagement during each year, which remains from 1st June to 30th November each year, and have demonstrated that each of them ^{has} ~~have~~ worked for more than 150 days, which makes them entitled to grant temporary status and under the circumstances they also became entitled to remain engaged during relevant period of the year and to be considered for regularisation when they completed requisite number of days for the purpose and, therefore, there is no justification for the respondents to call the names through Employment Exchange for fresh engagement, which is not only against the requirement of the facts in the matter and will also be ^{in violation of} ~~infringing~~ the departmental direction in this regard.

3. The respondents have contested the case and filed counter affidavit and have pleaded that the cases of the applicants were duly scrutinised in the light of applicable rules but they ^{here} ~~could not find~~ ^{eligible} be held, because of their having become overage even after grant of permissible relaxation in this regard.

4. Heard learned counsel for the rival contesting parties and perused the record.

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5. It would be in the fitness of the circumstances that first the eligibility of the applicant is considered and if they are found within zone of eligibility then only the other factors are to be examined. The respondents have a definite pleadings that the individual cases of the applicants were examined and they could not be given fresh engagement because of age bar which has been prescribed to be 18 years to 25 years.

6. Learned counsel for the applicant relied on the letter dated 10.4.1996, copy of which has been annexed as annexure 2 to the OA, according to which "This Headquarter letter of even number dated 16 Dec 94 has been issued in consultation with Ministry of Defence. It is confirmed that no age limit has been prescribed for employment of casual labour provided that all other conditions are fulfilled." With specific reference to this quoted provision, Shri Rajendra emphasized that when there is no 'age limit', therefore, the applicants could ^{not} be declared as overage and their claim ~~had been~~ is wrongly ~~been~~ rejected. In reply to this contention Shri Mohiley referred the respondents pleadings as brought under para 10, 11 & 12 of the counter affidavit Wherein the ^{issue in} issuing question has been elaborately discussed and the circumstances shown under which the referred annexure 2 has been wrongly drafted under the wrong caption because the provision regarding age limit quoted therein in respect of casual labours and the provisions has wrongly been referred in the matter of engagement of Seasonal Anti Malaria Lascars.

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Shri Mohiley has also referred SRO 365 dated 15.12.1989 issued by Govt. of India Ministry of Defence in exercise of powers conferred by proviso of article 309 of the Constitution of India. Scheduled to this SRO mentioned ^{that} under item no. 3, the age limit for recruitment to luscar/Anti Malaria Luscar is between 18 to 25 years relaxable for Govt. servant upto 35 years as per orders/instructions issued by the Central Govt.

7. Shri A. Mohiley has a case that no weightage can be given to any communication to supersede the notification issued under article 309 of the Constitution of India.

8. Keeping in view the submission as above there cannot be any ~~doubt~~ hesitation that there is provision providing the age limit for Seasonal Anti Malaria Luscar through SRO and the cases of the applicants ^{here} was duly scrutinised by the competent authority and applicants nos. 1 to 6 were ~~not~~ found not within the age limit and, therefore, their claim for recruitment and to provide the temporary status and regularisation has been refused, where as the applicant Shri Siya Ram has been mentioned to be within zone of consideration ^{no} and scope remains for judicial review on this count.

9. Once the applicants are beyond the zone of consideration for having become overage they are out of ^{face} place to raise any other objection. The case of Siya Ram be dealt as per provisions and pleadings by the respondents and be considered not withstanding

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that he has not been sponsored by the Employment Exchange.

10. For the above, the relief sought for cannot be granted. The OA is dismissed accordingly in respect of applicants no. 1 to 6. The case of Shri Sia Ram applicant no. 7 be considered in the light of above observation. No order as to costs.

S. C. Ray
Member-J

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