

Open Court

**Central Administrative Tribunal,
Allahabad Bench, Allahabad.**

Original Application No. 1191 of 2004

This the 06th Day of January, 2006.

HON'BLE MR. K.B.S. RAJAN, MEMBER-J

1. Mohd. Salimuddin, S/o late Sri Altaf Uddin.
2. Sant Lal, S/o Sri Kedar.
3. Ajit Kumar Sharma, S/o Sri Narendra Kumar.
4. Gaya Prasad, S/o Sri Banwari Lal.
5. Dinesh Chand, S/o Sri Lalai Prasad.
6. Mewa Lal, S/o Sri Ram Deo Ram.
7. Gopal Swaroop, S/o Sri Kanhaiya Lal.
8. Vivek Kumar Srivastava, S/o Sri V.K. Srivastava.
9. Anjani Kumar Dwivedi, S/o Sri Suresh Chandra Dwivedi.
10. Ram Suresh, S/o Sri B.R. Maurya.
11. Lava Kumar, S/o Sri Ram Chandra.
12. Brij Washi, S/o Sri Lal Bahadur.
13. Praveen Kumar, S/o Sri P.L. Kanaujia.
14. Rita Kumari, D/o Sri Chhabbu Lal.
15. Suraj Prakash, S/o Sri Hari Lal Pandey.
16. Bihari Lal Pandey, S/o Sri Hari Lal Pandey.
17. Sudhir Kumar Shukla, S/o Sri Ram Shukla.
18. Rajesh Kumar, S/o Sri Lal Chand
19. Shiv Narain, S/o Sri Ram Ghasite.
20. Brijesh Kumar, S/o Sri Sohan Lal.

..... Applicants

By Advocate : Sri A.K. Srivastava.

Versus.

1. Union of India through the Secretary Ministry of Finance, Government of India, New Delhi.
2. The Controller and Auditor General of India, Bahadur Shah Jafar Marg, New Delhi.
3. The Principal Accountant General, Accountant General's office, 20, Sarojani Naidu Marg, Allahabad.
4. Principal Director, Regional Training Institute (R.T.I.), Audit and Accounts

Department, 20 Sarojani Naidu Marg,
Allahabad.

..... Respondents

By Advocate : Sri Amit Sthalekar.

ORDER

The counsel for the parties have been heard and the documents perused.

2. Briefly stated the Regional Training Institute is an Organization coming under the Administrative control of Controller and Auditor General of India which certain independence power relating to functions of the Institution. It has specific number of complements of which a few are ex-cadre posts. In so far as Group D post is concerned, the number is 5. However, provision exists for engaging Casual labourers on need basis and accordingly on any even day around 20 casual labourers are engaged. Since 1986, such an engagement of casual labourers has been taking place and some of the applicants in this O.A. have been engaged as early as from 1986 onwards. The respondents for certain reasons, disengaged some such casual labourers and entertained fresh faces to work as casual labourers and this resulted in a total of 54 casual labourers in the roster, out of whom 20 could be given the job. On account of such rotation, the axe of disengagement fell on some of the applicants and such applicants with some others have approached this Tribunal challenging the act on the part of the respondents against their unfair labour practice by rotating the casual labourers.

The applicants have sought for regularization in accordance with law. Another grievance of the applicant is that some juniors are retained and the applicants are disengaged.

3. The respondents rebutted the contentions of the applicants. They have stated that depending upon the work need and certain special work, fresh hands are entertained, but such hands are retained only for a limited period. They have fairly conceded that though there are 54 casual labourers, all of them cannot be given work all through the year.

4. The question for consideration is whether the applicants services could be regularized and how for unfair labour practice is ^{indulged} ~~invoked~~ ^{by} the respondents Organization.

5. The apex Court in the case of H.D. Singh Vs. Reserve Bank of India & Others (1985 (51) FLR 495) has held as under:

"We will not be far from truth if we say that the Bank has deliberately indulged in unhealthy labour practice by rotating employees like the appellants to deny them benefits under the Industrial law."

6. The above dictum of the apex court squarely applies to the facts of the case saved that in this case it has not been proved that such a rotation is deliberate. The fair concession by the respondents that though only 20 persons could be engaged and a

list of 54 casual labourers is with them, therefore, It cannot be said that the attempt is deliberate, but the practice is certainly detrimental to the interest of the casual labourers. Innocuous or deliberate this practice should not continue henceforth. The possible solution, therefore, would be that the respondents carry out an exercise of preparing a seniority list in the descending order of the number of days these casual labourers worked as on 1.4.20~~0~~05 (irrespective of whether the casual labourers were on duty on this day) and on the basis of the seniority, they shall work out the possibility of regularizing the services of such casual labourers against any vacant post of Group 'D' post or any new posts are created in near future. In so far as day to day work is concerned, the respondents shall accommodate the first 20 and incase of their non-availability for any span of time, according to the seniority they may engage other casual labourers on need basis. Those who are ~~tail-enders~~ ^{tail-enders} may be suitably informed of their ~~blech~~ ^{blech} prospects of being engaged in view of the fact that there are adequate number of casual labourers to be engaged for day to day work who are senior to such persons. Out of the seniors as on date, if any of them are not being engaged, the respondents shall accommodate them as well.

7. With the above directions, the O.A. stands disposed of with no order as to costs.


MEMBER-J

GIRISH