

(Open Court)


CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 12TH day of September, 2005.

Original Application No. 570 of 2004.

Hon'ble Mr. D.R. Tiwari, Member-A
Hon'ble Mr. K.B.S. Rajan, Member-J

1. Kanhaiya Lal Yadav s/o late Sri Saraju A/A 53 years, Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
2. Mohan Lal S/o Raghuvar Pal A/A 47 years, Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
3. S. Ansari S/o Vahauddeen A/A 48 years Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
4. Acharju S/o Ram Pudi Yadav A/A 50 years Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
5. Ram Sijor Son of late Jitey Ram A/A 55 years Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
6. Mewa Lal S/o late Maga Ram A/A 55 years Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
7. Ram Surat S/o late Ganga Prasad A/A 59 years Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
8. Jag Narayan S/o Ram Pyare A/A 50 years Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
9. Ram Pati Maurya Son of late Ram Dular Maurya A/A 52 years, Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
10. Ram Dular S/o late Sarju A/A 55 years Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
11. Ram Bali Prasad S/o Sohan Prasad A/A 48 years Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
12. Ishwar Chandra Mishra Jay Shankar Mishra Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
13. Sakha Ram S/o late Algu Ram A/A 52 years Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
14. Ram Shankar Maurya S/o late Mokhan Maurya A/A 56 years Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
15. Bechan Sekh S/o Mohammad Jumai A/A 54 years Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
16. Basant Lal S/o late Sarju Prasad A/A 50 years Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.



17. Kamta Prasad S/o late Ssarju Prasad A/A 54 years Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
18. Silvanta S/o Dev Sharan A/A 48 years Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
19. Ram Murat Maurya S/o Shri Ram Maurya A/A 55 years Instructor, 854 Service Center, Civil Line, Barely.
20. Shri Ram S/o Ram Karam A/A 55 years, Asstt. Instructor, 854 Service Center, Civil Line, Barely.
21. Chaturbhuvan Mishra S/o late Jamuna Prasad A/A 50 years, Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
22. Kailash Nath Maurya S/o late Moti Lal, A/A 51 years, Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
23. Nand Lal Maurya S/o Aliyar Maurya A/A 57 years, Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
24. Jagnu Ram S/o late Ram Kishun A/A 57 years, Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
25. Keshav Lal S/o late Ram Sharan A/A 48 years, Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
26. Chhote Lal S/o Ram Saran A/A 48 years, Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
27. Prabhu Nath S/o late Pancham A/A 59 years, Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
28. Hari Shankar S/o Udal Yadav A/A 58 years Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
29. Bharat S/o Baiju Ram A/A 89 years, Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
30. Murali Pasi S/o Late Aganu A/A 52 years Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
31. Bansi Yadav S/o late Jhakar Yadav A/A 49 years, Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
32. Krishna Murari Chaurasia S/o late Amar Nath A/A 50 years, Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
33. Ram Rati Pal S/o Khilodhar Pal A/A 50 years, Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
34. Rajpati Maurya S/o Jamuna Prasad A/A 54 years, Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
35. Jawahar Maurya S/o Bhaggan A/A 57 years, Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.
36. Ram Sajivan S/o late Sri Baiju A/A 48 years Asstt. Instructor, Central Store Unit, Ashapur, Sarnath, Varanasi.

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37. Raj Nath S/o Sri Setan A/A 46 years
Instructor, Central Store Unit, Ashapur,
Sarnath, Varanasi.
38. Manijar Ram S/o Gurudas A/A 46 years
Instructor, Central Store Unit, Ashapur,
Sarnath, Varanasi.
39. Mewa Lal S/o late Mahipal A/A 52 years,
Asstt. Instructor, Central Store Unit,
Ashapur, Sarnath, Varanasi.
40. Jagan Nath Pal S/o late Nanku Pal A/A 53
years, Instructor, 854, Service Center,
Civil Line, Barely.
41. Ram Rup Pal S/o Baba Pal A/A 47 years,
Instructor, Central Store Unit, Ashapur,
Sarnath, Varanasi.
42. Ganesh Prasad Pal S/o Seva Lal A/A 50 years,
Asstt. Instructor, Central Store Unit,
Ashapur, Sarnath, Varanasi.
43. Lal Ji S/o Ram Lakhan A/A 42 years, Asstt.
Instructor, Central Store Unit, Ashapur,
Sarnath, Varanasi.
44. Kailash Yadav S/o Ram Raj Yadav A/A 48
years, Asstt. Instructor, Central Store
Unit, Ashapur, Sarnath, Varanasi.
45. Shyam Lal S/o Baij Nath A/A 43 years, Asstt.
Instructor, Central Store Unit, Ashapur,
Sarnath, Varanasi.
46. Bilagu Ram S/o Paravan A/A 49 years, Asstt.
Instructor, Central Store Unit, Ashapur,
Sarnath, Varanasi.
47. Ram Pyare S/o Mata Prasad A/A 50 years,
Asstt. Instructor, Central Store Unit,
Ashapur, Sarnath, Varanasi.
48. Ram Bali Yadav Ram Khelavan A/A 47 years,
Asstt. Instructor, Central Store Unit,
Ashapur, Sarnath, Varanasi.
49. Sohan Lal S/o Bodhayi, A/A 58 years,
Instructor, Central Store Unit, Ashapur,
Sarnath, Varanasi.
50. Jangali Ram Yadav S/o Mata Gulam A/A 56
years, Instructor, Central Store Unit,
Ashapur, Sarnath, Varanasi.
51. Basant Singh S/o Beni Bahadur Singh A/A 55
years, Instructor, Central Store Unit,
Ashapur, Sarnath, Varanasi.
52. Shri Nath S/o A/A 57 years, Instructor,
Central Store Unit, Ashapur, Sarnath,
Varanasi.
53. Chandrama Prasad Arya S/o Ram Lakhan Kurmi
A/A 53 years, Instructor, 854, Service
Center, Civil Line, Barely.

.....Petitioners.

(By Advocate : Sri B.N. Chaturvedi)

Versus.

1. Union of India through Secretary, Ministry
of Textiles, Govt. of India, New Delhi.

B.N.

2. Development Commissioner (Handicraft) O/O D.C. (Handicraft), West Block No.-7, R.K. Puram, New Delhi.
3. Asstt. Director (A&C) O/O D.C (H), Service Centre, sigra, Varanasi.
4. Asstt. Director (H), Marketing and Service Extension Center S-10/193-B-5 Hukul Ganj, Varanasi.
5. Asstt. Director, Service Center Barely, 25-A, Civil Lines, Barely.
6. Asstt. Director (H) O/O D.C. (H) Marketing and Service Extension Center, Dehradun.

.....Respondents.

(By Advocate : Sri R.C. Shukla)

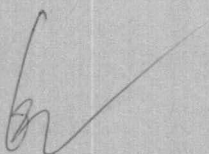
O R D E R

By Hon'ble Mr. K.B.S. Rajan, Member-J

A crystallized right of the applicants who have been granted regular status had been sought to be withdrawn, which telescopically results in the withdrawal of their ACP benefit. Hence this O.A. The OA was allowed by the order dated 12-09-2005 for reasons to be recorded separately and this order spells out the reason.

2. The brief facts of the case as given in the list of dates and events as contained in the OA would suffice and the same is reproduced below.

Sl. No.	Dates	Events
1.	1976 to 1980	The applicants initially appointed as an daily wager an since then they are continuously working as an Instructor and Asstt. Instructor in capacity of an



regular employee.

- 2 9.9.1988 Some of the applicants filed an O.A. NO.545 of 1988 seeking regularization an the entire benefits of service treating them as a Govt. Servant which was allowed.
- 3 23.2.1990 645 post of Instructors and 756 post of Asstt. Instructors (group -C) sanctioned vide order dated 23.2.1990 and the services all the applicants regularized w.e.f. 3.10.1985.
- 4 ***** Their seniority list are maintained as a regular employee of group C.
- 5 ***** The applicants have also been granted the benefit of promotional pay scale granting the benefit of A.C.P payable on account of 12 years of service.
- 6 5.3.2004 24 to 28 years regular and confirmed services of the applicants have been cancelled with immediate effect without any opportunity of hearing, whereas, the services of the petitioners/applicants were regularized with effect to the judgment and order dated

9.8.1988 of the Hon'ble Court.

HENCE THE ORIGINAL APPLICATION
IS BEING FILED

The order impugned herein spells out as under:-

"The office of the Development Commissioner (Handicrafts) appointed staff of various cadres under Carpet Scheme (Plan) launched in 1976 under direct recruitment purely on temporary basis. In terms of advice obtained from Esstt. © DOPT under UO No.28/04-Estt.© dated 10.2.2004 and in exercise of the powers vested with undersigned as head of the Department the orders issued by Regional Directors of concerned Zones in the past on various occasions conferring substantive status in r/o the said staff are hereby cancelled with immediate effect and until further orders.

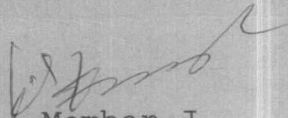
3. The applicants contend that there are regular posts and this regard, the applicants rely upon the judgment of the Tribunal in OA No. 542/86 Nanda Lal Marya and others vs UOI and others, decided on 09-08-1988. This order which was challenged in SLP © No. 15942/1988, the same was dismissed vide order dated 30-01-1989. In pursuance of the above the Respondents have also brought out an office order, dated 23rde Feb. 1990 spelling out a number of posts of Instructors and Asst. Instructors on regular basis. Though the respondents try to assert that the said government order dated 23-2-1990 does not disclose that the posts are permanent in nature, this argument cannot stand judicial scrutiny inasmuch as the order of the Tribunal dated 9-8-98 talks of regular appointment to the applicants in the said OA and as such, in compliance with the order, when an administrative order is passed, the said order has to be read in conjunction with the

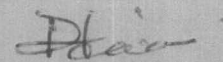
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judgment of the Tribunal. As such, the posts created vide order dated 23-2-1990 cannot but be held as regular post. Again, all the benefits available to the permanent employees have been made available to the applicants, as contended in para 4.6 of the OA. The reply to the same by the respondents is not convincing.

4. Hence, the OA succeeds. The order impugned therein i.e. Order dated 05-03-2004 is quashed and set aside. The respondents are directed not to disturb the status of the applicants.

5. Under the circumstances, there would be no order as to costs.


Member-J.


Member-A.

Manish/-