

Open Court**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH: ALLAHABAD**

Original Application No.1284 of 2005.

Allahabad, this the 29<sup>th</sup> day of March, 2007.

Hon'ble Mr. Justice Khem Karan, Vice-Chairman

1. Chandra Pal Yadav S/o K.P. Yadav, aged 39 years, R/o 133/35, O Block, Kedwai Nagar, Kanpur, U.P.
2. Chandra Yadav S/o Lakan, Aged 51 years, R/o Post Office Compound, Nawab Gang, Kanpur.
3. Naresh S/o Nekram, Aged 37 years, R/o Nar Singh Mahavidyalaya, Medical College, Kanpur.
4. Suresh S/o Nekram, Aged 42 years, R/o Nar Singh Mahavidyalaya, Medical College, Kanpur.
5. Ram Sahare S/o Chedi Lal, aged 44 years, r/o 64/109, Salig Ram Hata, Gadaria Mohal, Kanpur.
6. Syed Yusaf Ali Jafri S/o Ekram Ali, aged 50 years R/o 10/2/2, Madni Nagar, Shukla Gang, District- Unnao.
7. Ram Lakan Yadav S/o Sohan Lal Yadav, aged 45 years, R/o Vill.-Lal Duranhi, Kanpur Dehat.
8. Bhikham Prasad Agnihotri S/o Late Mahavir Prasad, Aged 44 years, R/o 2A, Ganga Gang, Panki, Kanpur.
9. Anil Kumar Agnihotri S/o Late Babu Lal, Aged 45 years, R/o 33A, Pashu Pati Nagar, Naubasta, Kanpur.
10. Kishore Kumar Pandey, S/o Mahadeo Pandey, Aged 40 years, R/o 193, Subhash Road, Harjendra Nagar, Kanpur.

...Applicants.

(By Advocate : Shri O.P. Gupta)

Versus

1. Union of India through Secretary, Ministry of Communication, Govt. of India, New Delhi.
2. The Senior Superintendent of Post Offices, Kanpur, City Division, Kanpur.
3. The Chief Post Master General, U.P. Circle, at Lucknow.

...Respondents.

(By Advocate : Shri S. Singh)



(6)

ORDER

By Hon'ble Mr. Justice Khem Karan, V.C.

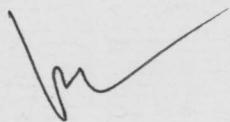
These applicants are praying that the respondents be directed to regularize them in Group 'D' with all consequential benefits and to count entire period of the service of the applicants, including one rendered on casual basis, as qualifying service for the purposes of pension and other retiral benefits. They have also prayed that the respondents be directed to pay to them Bonus in the light of the Circular dated 30.11.1992 issued by the D.G. Posts and also grant the benefit of L.T.C. and General Provident Fund etc.

2. In brief, their cases are that they were inducted as casual labourer in Group 'D' about 20 to 30 years back and were also conferred the temporary status as shown in Annexure-1. It is also stated that since then they have been continuing in the same capacity with regular pay scale but have not been regularized. They say that the respondents ought to have considered their regularization in Group 'D' as their continuance for such a long time, is sufficient to infer that the respondents have a need of these hands. According to them, if they are not regularized, they may not be able to get the benefits admissible to regular Group 'D' employees. In other words, they want to say that they may not entitled to time bound promotion on completing 16 years of service etc. They have also stated that one Shri Ram Kishore Singh figuring at Sl. No.19 in the same list dated 30.5.1991 (Annexure-A-1) has already been regularized, in compliance of the orders of this Tribunal. Attempt has also been made to say that two other persons, namely Shiv Shankar and Ram Lakhan having identical case, have also been regularized in compliance of the judicial orders passed by this Tribunal.



3. The respondents have resisted the claim by filing a written reply. They say that these persons can not claim the regularization as a matter of right and it all depends upon the scheme of regularization and the vacancies in Group 'D. Attempt has also been made to say that some of these applicants are working for one or two hours only. It has also been stated that 25% of the vacancies in Group 'D' are filled by direct recruitment and the rest by promotion.

4. Shri O.P. Gupta has drawn attention of the Tribunal towards the decision dated 7.5.2003 rendered by this Bench in OA No.943/01 in the case of Ram Kishore Singh Vs. Senior Superintendent Of Post Offices & ors, so as to say that it is the same person whose name figured at Sl. No.19 of the list dated 30.5.1991 (Annexure-A-1), wherein the names of all these applicants are shown. He says that incompliance of the directions dated 7.5.2003 Shri Ram Kishore Singh has since been regularized, as is evident from Annexure-A-8. Learned counsel for the applicant says that when Ram Kishore Singh has already been regularized, there is no reason to deny the same to the present applicants whose names figured in the same list of 30.5.1991. Learned counsel has also submitted that in case the department was of the view that the decision dated 7.5.2003 was not sound or could open flood gate to other such matters, the proper course for it was to take the same to higher forum. He says that not only in the case of Ram Kishore Singh but in some other case also the department has chosen to regularize such persons, in compliance of the decision of this Tribunal. According to him, there is no reason not to consider the case of the applicant in the present application on the same lines. Learned counsel has tried to say that the case of the present applicants with temporary status, is quite different to the case of pure casual labourers. According to him, these persons were inducted long back in accordance with the provisions contained in Para 154 (A) and (B) of Postal Manual after inviting their names from Employment Exchanges.



5. Learned counsel for the respondents submitted that the case of Ram Kishore Singh or Shiv Shanker and Ram Lakhan cannot be cited as precedent for claiming the regularization, as those were the matters covered by the judicial decisions of this Tribunal. He has also submitted that now after decision of Apex Court in Uma Devi's case, these casual labourers have no case for regularization. According to him, all such persons are to be considered for regularization as and when the vacancies will arise in Group 'D', in direct 25% quota.

6. Shri O.P. Gupta submits that the case of Uma Devi cannot be applied, in the case of these applicants who were conferred temporary status long back, in 1989. He says that under the rule such persons are to be regularized in Group 'D' as and when the vacancies occur in the establishment, where they are working.

7. The Tribunal has considered the matter, especially in the light of decision dated 7.5.2003 in OA No.943/01 in the case of Ram Kishore Singh Vs. Senior Supdt. Of Post Offices & others, I doubt whether Uma Devi's case can be applied to the case in hand, where the applicants were conferred temporary status, long back and where similarly situated person of the same list, has been regularized. Here seems no reasons to reject the claim of the applicant for considering their regularization in order of seniority as and when the vacancies so arise in Group 'D'.

8. The OA is finally disposed of with a direction to the respondents to consider the case of the applicants (excepting the case of Suresh who died) for regularization in Group 'D' in order of seniority as and when the vacancies so arise in Group 'D' in quota of direct recruitment. They will inform the applicants about occurrence of vacancies in a year, in the quota of direct recruitment. No order as to costs.

*1. J. M. 28-3-07*  
Vice-Chairman