

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Registration O.A.No. 725 of 1988

Nar Singh & Others

Applicant

Vs.

Union of India & Others

Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gopthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicants who were appointed as Casual Labour were given the work of motor driver/ mechanic on daily wages. The applicants were appointed between the year 1978 and 1980, and they continue to work as such. They were appointed as temporary employees after having duly passed the medical examination and they were also paid the salary of temporary employees, provided with residential accommodations and other facilities available to the temporary employees. The applicants have made a representation in the year 1981 for making them permanent and also for providing them with uniforms, and they are went on giving more representations in this behalf. In the year 1986 there was a trade test for the post of drivers. The applicants 1 to 7 appeared in the said test and they also qualified for which they were also given a certificate. Vide a letter dated 21.7.87 the AEN Incharge Moradabad Office confirmed that the applicants 1 to 7 are working against permanent post and that these applicants 1 to 7 be informed that their regularisation of service will be subject to passing the screening for which D.S.E. has been required. But no steps were taken for regularisation, and the applicants again were compelled to file a representation against the same. The applicant No.16 who was appointed as Khalasi in the year 1979 was also required to appear in the trial test and was declared qualified for the same and was promoted as Jeep Driver on temporary sanction and his appointment was extended from time to time which is evident from the certificate dated 4.2.84. He was also asked to appear in trade test for driver and he qualified the said test held on 25.8.83. In September, 1985 he was asked to go back on his original post of Khalasi and it was stated that the E.S.A.'s

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sanction for driver has not been received. He was not paid the salary for driver for the period between February, 1986 to 27.11.86 and also he was not paid salary for two months, but later on by the orders of the D.R.M. dated 2.12.85 his salary was given. Against non payment of salary from Feb. 86 to 27.11.86 he again made representation but it has not bore any fruit. The applicants have prayed that an order or direction to the respondents regularising their service be issued and they may be directed to ward them all the consequential benefits and the respondents may be directed to pay the arrears of salary of applicant No.16 between February, 1986 to 27.11.86 for which period he was illegally paid the salary of Khalasi although he had worked as Driver.

2. The respondents have opposed the application and have stated that as per Para 2511(C) of Indian Railway Establishment Manual it is not necessary to create temporary posts to accommodate casual labours, and some of the applicants six in numbers have already been regularised vide order dated 10.10.1990. According to the respondents as per provision of Northern Railway Printed Serial, 25% Casual labours can be absorbed in regular vacancies. So far as applicant no.16 is concerned he was rightly paid the salary in accordance with the provisions of rules.

3. It appears that they have been working since long, yet their services have not been regularised. Obviously the services of 6 of the applicants ^{have been regularised, hence} there appears to be no reason why the case of other applicants for regularisation will not be considered. In case there is still adherence to 25% quota, number of vacancies will ^{have} occurred and it appears that the case of other applicants ^{have} not been considered. The respondents are duty bound to consider their case for regularisation they having put in service for more than 10 or 12 years. So far as applicant no.16 is concerned, if the work of driver has been taken and not that of Khalasi the respondents are bound to pay him salary for the said period

as driver even though he was Khalasi. Accordingly the remaining respondents are directed to consider the case of the/ applicants for regularisation in accordance with the rules and see that they are regularised when ^{their turn} ~~term~~ comes, without any delay. So far as applicant no.16 is concerned they are directed to pay the arrears of salary claimed by him if he had worked as driver during that period instead of Khalasi. This payment shall also be made/within a period of 3 months. The application stands disposed of finally in these terms. No order as to costs.

transcript

Member (A)

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Vice-Chairman.

14th January, 1992, Allahabad.

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