(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Allahabad, this the 25th day of May, 2000.

CORAM : Hon'ble Mr. S. Dayal, Member (A)
Hon'ble Mr. Rafiq Uddin, Member (J)

ORIGINAL APPLICATION NO. 1070 of 1992
Alongwith
ORIGINAL APPLICATION NO. 1730 of 1992
Alongwith
ORIGINAL APPLICATION NO. 1521 of 1994

Original Application No. 1070 of 1992

1. Shri Neeraj Kumar Srivastava,
Aged about 30 years, son of
Shri Ram Nath Srivastava,
resident of 702/212,
Sohbatiya Bagh,
Allahabad.
2. Shri Bhaskar Sinha,
aged about 23 yrs,
son of Sri Braj Bhooshan Lal Sinha,
R/o 1-New Bahirana, Allahabad.
3. Sri Dinesh Pratap Singh,
aged about Major
son of Sri Shiv Bahadur Singh,
resident of K.P. Inter College Compound,
ALLAHABAD.
4. Shri Rajendra Kumar Prajapati,
aged about Major, son of Sri
Banbari Lal Prajapati, r/o
123-Chandpur, Post Office
Tiliarganj, Allahabad.

5. Shri Suresh Chandra Kushwaha, aged about Major, son of Sri Gurudeen Kushwaha, resident of Bhidaura, Post Office Tharwai District, Allahabad.

...Applicant

C/A Shri Rakesh Verma

Original Application No. 1730 of 1992

1. Sri Mohd. Gulzar Khan
   Aged about 26 years, son
   of Shri Shahzad Khan, resident of
   129, Allahabad.
2. Sri Ram Shiromani Pandey,
   aged about 27 years, son
   of Shri Hamumant Prasad Pandey,
   Resident of village Utariya ha
   Post Office Bashi Khice, Ghul
   Karchana, Allahabad.
3. Srivirendra Kumar Prajapati,
   son of Shri Banwari Lal Prajapati,
   aged about 20 years, resident of
   123, A-Chandpur Salon Post Office
   Teliarganj, Prayag, Allahabad.
4. Shri Ramayan Prasad Misra, aged
   about 27 years, son of Shri Ram
   Manorath Misra resident of village
   and Post Office Hetapur
   via Hanumanganj, Allahabad.
5. Shri Jeet Lal aged about 25
   Years, son of Shri Moti Lal

resident of 71/A-7A, Vàmla Nagar,
Stanly Road, Allahabad.

6. Sri Suresh Kumar Yadav,
aged about 28 years, son of
Shri Shilbaran Yadava, resident
of Bashara post office Chatdara,
Tehsil Bara, District Allahabad.

7. Sri Rama Shankar Tiwari, aged
about 29 years, son of Shri
Masuriadeen Tiwari, resident of village and
post office Nili Kalan
P7O, Jhunsi, Allahabad.

... Applicant

C/A Shri Rakesh Verma

Original Application No. 1521 of 1994

1. Sri Manoj Kumar Mathur, aged
about 28 years, son of Sri.
Suresh Chandra Mathur, resident of
28/22, New Bairahana, Allahabad.

2. Sri Ramesh Bahadur Singh, aged
about 26 years, son of Sri.
Yadu Nath Singh, resident of 194
Bakshi Kalan-Daraganj. Allahabad.

3. Sri Anil Kumar Misra aged about 28 years
son of Sri Raj Kumar Misra, resident of Nai Jhunsi
(Gola Bazar), P.O. Nai Jhunsi, Distt. Allahabad.

. . . Applicants.

C/A Sri Rakesh Verma, Adv.

Versus

(Respondents in all the three O.As)

1. Union of India through the Secretary,
Ministry of Home Personal and training,

Public Grivances, North Block, New Delhi.

2. The Chairman, Staff Sellection Commission, 12 C.G.C. Lodi Road, New Delhi.

3. The Regional Director, Staff Selection Commission, Central Region, Beli Road, Allahabad.

...Respondents

C/R Shri A.V. Srivastava

Shri Prashant Mathur

O R D E R

(By Hon'ble Mr. S. Dayal, Member (A))

These three applications have been filed by three applicants in O.A. No. 1070/92, 8 applicants in O.A. No. 1730/92 and two applicants in O.A. No. 1521/94. The relief asked for in all the three O.A's is for regularisation of the applicants with consequential benefits of regularisation. A declaration has also been sought to deem the applicants as holding their posts and give them all the benefits and advantages of continuity of service.

2. The case as presented by the applicants is that the applicants in O.A. No. 1070/92 were appointed on 10.07.1987, April, 1987, 14.06.1989 and 8/6.07.1987 respectively. They were terminated in May,1990 with the assurance that they would be taken back in service as the matter was under consideration. They have claimed the benefit of office memorandum dated 21.03.1979 of Ministry of Home Affairs, Government of India. They claim that the director had appointed fresh candidates while the applicants have preferential claimed to be so appointed.

3. The applicants in O.A. No. 1730/92 were appointed on 01.07.1987, November 1980, 20.07.1987,

20.06.1987, 20.04.1988, 05.05.1987, 01.05.1987 and 30.10.1986 respectively. They claim to have continued to discharge their duties till July 1990 and were orally terminated with assurance that they would be taken back in service. They have mentioned that they were informed that the case of the Ganga Dayal Yadav and other Versus Regional Director, Staff Selection Commission was already before the Central Administrative Tribunal and the applicant's case would be considered after judgement in the aforesaid case. The other facts remain the same as in the first O.A.

4. In O.A. No. 1521/94 the applicants claimed to have been appointed on 01.07.1987 and 01.08.1988 respectively. They claim to have continued to discharge their duty till July 1990.

5. In all the three O.A's the applicants have claimed on their names were sponsored by the Employment Exchange to the Staff Selection Commission.

6. The arguments of Shri Rakesh Verma for the applicant and Shri A. Mohiley and Shri P. Mathur for the respondents have been heard.

7. The applicants claim the benefit of O.M. No. 49014/4/77-ESTT(C) dated 21.03.1979. By this office memorandum the engagement of Additional staff on daily wage basis was declared irregular and provision was made for fixing responsibility if additional staff was engaged om daily wage basis. The ban on recruitment of post of peon was lifted after affecting 20 per cent cut in sanctioned strength because it was provided that while filling up the post of peons the ministries department should first absorb persons available in the

surplus cell of the DGE & T under the Ministry of Labour and Employment if such persons were available with the DGE & T. The casual employees were to be appointed to the post of peons borne on the regular establishment provided the casual employees have been engaged through Employment Exchange and possess minium of two years continuous service as casual labour in the office establishment and were eligible in respect of maximum age after deducting the period spent by them as casual employee. The applicants have claimed and the respondents have not denied that their names were sponsored by the Employment Exchange. The difficulty lies regarding the period of continuous service of two years as required by the OM dated 21.03.1979. The respondents had initially denied and then accepted in paragraph 9 and later when the applicants filed the experience certificate given by Assistant Director Administration which showed that Shri Neeraj Kumar Srivastava had worked from 10.07.1984 to 14.03.1990, Shri Dinesh Pratap Singh had worked from 04.07.1989 to 02.03.1990 and Shri Bhaskar Sinha had worked from 03.05.1987 to the date of certificate which was January 1988, Shri Suresh Chandra Kushwaha from 06.07.1987 to 19.04.1990 with usual brakes, Shri Rajendra Kumar Prajapati had worked from 01.05.1989 to 30.03.1990. The applicants have submitted their certificate of work given by the Assistant Director Staff Selection Commission and it shows that applicant No. 1 worked from 01.07.1987 till February 1990, appli-cant No. 2 worked from 01.01.1987 to 27.04.1988, applicant No. 3 worked from 22.07.1987 to February

1990, applicant No. 6 worked from 01.07.1987 to February 1990. The certificate of other applicants have not been furnished by the applicants along with their rejoinder in O.A. No. 1521/94. From the documents on record it appears that many of the applicants had worked for two years and more. Whether they had worked on continuous basis or not was to be ascertained by the respondents from their records. Since the respondents have failed to produce any record, they should relied upon the certificates which have been furnished by the applicants in the O.A.

8. The question of procedure adopted for recruitment of Chaukidar has been stated by the respondents in their counter affidavit. It appears that candidates from open market were also allowed to appear along with the applicants for selection on that post. They claim that the authorisation for adopting this procedure came from directions given in review application from 379/90 decided on 05.05.1993. But we have carefully gone through the directions and we find no direction to consider the applicants who were engaged on casual basis along with candidates on the open market. As a matter of fact the direction was that in case persons junior to the applicants were allowed to continue then the applicants were to be considered for regularisation together with those appointed subsequent to them. Hence, the justification given by the respondents in case of the post of Chowkidar is also not acceptable because this prodedure was also not an authorised one. However, since the post is that of Chawkidar and the appointment of Chowkidar has not been challenged in the O.A's,

we pass no orders with regard to consideration of the applicants on this post. However, we provide that the applicants shall be considered for the post of peons which become available in the office of Staff Selection Commission Allahabad either on account of attrition or creation of post in accordance with the provisions of O.M. of Home Ministry dated 21.03.1979. The O.A. stands disposed of in terms of these orders.

No order as to costs.

Member (J) Member (A)

/S.P./