

THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

D.A. No. 1177 of 1992.

Som Nath Chaterjee and others..... Applicants.

Versus

The Union of India & others..... Respondents.

Hon'ble Mr. K. Obayya - Member (A).

Hon'ble Mr. A.K. Sinha - Member (J).

(By Hon'ble Mr. K. Obayya Member (A).)

The applicants who are 11 in number have approached the Tribunal for quashing the order of termination dated 21.4.92 (Annexure-1) and they have also prayed for issue of directions to the respondents to treat them as continuing in service and pay salary and other emoluments.

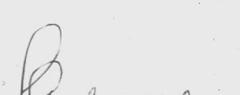
2. According to the applicants they were appointed as Class IVth employee in the Custom Department and all of them have completed more than 240 days of service and, as such, they were entitled for regularisation, but their services are being dispensed with without observing the procedure laid down under the Industrial Dispute Act. The applicants assailed the impugned order on the ground that the orders were passed without providing opportunity of representation to the applicants and that the provisions of Industrial Dispute Act have not been followed and that the orders are arbitrary and illegal and against the Principle of Natural Justice.

3. The respondents have contested the case and in reply, it is stated that the applicants were appointed under emergent requirement as General operator/Water-man as Casual Labour on daily wages of Rs. 20/- per day which was the prescribed rate. It was also made clear to the applicants that their engagement would depend upon availability of casual type of work and whenever there was

no work, they were informed and they were also not engaged. It is pointed out that since the engagement of the applicants was on Casual basis, no appointment order was issued and the order dated 7.5.92 was issued under some mis-conception of factual position. It is also stated that Custom Department is a Central Government Department and it is not an Industry as such the provisions of Industrial Dispute Act are not attracted. It is denied that the termination of the applicants was illegal and arbitrary. The termination was due to the fact that there was no work to engage them.

4. We have heard the counsels for the parties. Annexure-1 which is the impugned order, indicates that the applicants were working as Daily Wages Workers, their engagement was on different dates during the years 1989 to 1991. As the applicants were Daily rated Casual Labour and they have not worked against the regular posts, it cannot be said that having worked on adhoc posts for a particular period they have acquired rights for regularisation. As the applicants worked for considerably longer period, they deserve priority and preferential consideration in the matter of re-engagement or appointment against any vacancies of casual nature, that may arise hereafter. In the circumstances, the respondents are directed that preference and priority be given to the applicants in the matter of re-engagement for any Casual type of work over out-siders or new incumbents and may also consider their cases for regular appointments in accordance with law in due course subject to their satisfying prescribed conditions. The application is disposed of as above with no order as to the costs.

Ashok Kumar Singh,  
Member (J).  
Dt: March 27/3/1993.  
(DPS)

  
Member (A)