

Reserved

Central Administrative Tribunal
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 28th day of July 2000.

Coram: Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. S. Dayal, A.M.

Original Application No. 362 of 1993.

1. Vijai Kumar son of Late Bhullar, aged about 30 years resident of 238 Mans-Vihar Tiwaripur, Kanpur.
2. Ishtiyaq Haider son of Sri Altaf Haider resident of 121 Chau Khera, Harjinder Nagar, Kanpur
3. Pawan Kumar aged about 33 years son of Shri Beni Madho, resident of B-25 Shanti Nagar, Kanpur Cantt.
4. Virendra Tiwari son of Sri Chandra Bhan aged about 28 years resident of Kurmanchal Bhawa Nagar Colony, House No. 111, Shanigawn Road, Kanpur.
5. Rakesh Kumar son of late Sri Ramadhar resident of L-7/2 Ganga Vihar, Kanpur.
6. Kali Charan son of Late Satya Narain, Resident of Village Baru Khera, Post Gunir Distt. Fatehpur.
7. Kartar Singh son of Sri Amar Singh, Resident of House No. 75, Anand Marg, Jagaipur, Harjinder Nagar, Kanpur.
8. Abdul Aziz son of Sri Bashir Ahmad resident of Bhishti Colony, Kanpur Cantt.
9. Dhruv Kumar son of Sri Ram Bali, resident of village Naranga Post Balepur Parshiha Distt. Deoria.

. . . Applicants.

By Sri Anil Kumar Adv. and
Sri O.P. Singh, Adv.

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Versus

1. Union of India through Engineer In chief, Army Head Quarter, D H Q, P.O. New Delhi.-110011
2. Chief Engineer, Head Quarter, Central Command, Lucknow.
3. Garrison Engineer , E/M Chakeri Division, Kanpur-8.

. . . Respondents.

Counsel for the Respondents: Sri Amit Sthalekar, Adv.

Order (Reserved)

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

This application has been filed by nine applicants jointly seeking a direction to the respondents to absorb the applicants in the office of Garrison Engineer, Chakeri Division Kanpur who is respondent No. 3 in the application.

2. The case of the applicants is that they were given appointment in 1982 as Mazdoors and worked till their services were orally terminated in 1987^{but} were not absorbed despite Government Circular in their favour

3. The arguments of Sri Anil Kumar for the applicant and Sri Amit Sthalekar for the respondents were heard. We have taken into consideration the submissions made orally as well as in the pleadings filed by them.

4. We find from annexure that applicant No.1 worked for 157 days between 17.9.82 to 28.2.83, 192 days between 22.6.83 and 18.12.83 and 89 days

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between 14.9.84 to 11.12.84. It is claimed in the body of the application that applicant No.2 worked for 518 days between 11.12.82 and 1987 but annexures do not show the actual period of work put in by him. Applicant No. 3 is said to have been appointed on 05.2.83 and to have worked for 488 days after which his services were orally terminated. His certificate shows 25 days in 8.2/83, 357 days in 83-84 106 days of work in 1984-85. He was interviewed and engaged as Mazdoor on 14.10.87. Applicant No.4 was engaged as a Mazdoor on 23.6.83 and was permitted to work upto 23.6.88. His days of work have not been shown. Applicant No.5 was engaged on 12.9.84 as Mazdoor and worked upto 1987. His certificate shows 168 days of work in 1982-83, 183 days of work in 1983-84 and 48 days of work in 1984-85. Applicants No.6 and 7 have claimed that they worked for "considerable period" between 1982 and 1987. The days of work of applicant No.6 have not been shown. Applicant No.7 worked for 89 days in 1983-84 and 89 days in 1984-85. Applicant No.8 has claimed that he was given appointment as Chaukidar and worked upto 1987. His certificate shows that he worked for 88 days in 1983-84. No details have been given of applicant No. 9. The applicants have claimed that they should have been absorbed as per departmental instructions. The instructions of Deptt. of Personnel and Administrative Reforms dated 26.10.84 referred to in Rajkamal and Ots. Vs. Union of India and others (1990) 13 AT C 478 require work of 240 days in each of consecutive years for being eligible for absorption. None of the applicants fulfil the criterion required under the circular of Department of Personnel and



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and Administrative Reforms. The learned counsel for the applicants contended that the applicants were engaged on contingency paid work after fulfilling all the requirements for selection and, therefore, they should be given opportunity of regularisation after those eligible have been regularised. As the opportunities in Government Employment are shrinking and there are a number of new entrants in the job market each year seeking work, we would not like to issue instruction choking employment of such entrants by requiring the respondents to absorb casual workers who had worked in the past. A list of such casual workers should, however, be maintained and they may be offered work of casual nature as and when such work is required. While for regular induction, they have to compete with others for which they should be given age relaxation to the extent of period of work put in by them, they are to be given priority for work of casual nature because of their experience.

5. The learned counsel for applicant has shown that some of the applicants had been called for interview in 1987 but they were not selected as they were not found suitable. It is contended that they had been found suitable in the past and had worked for the respondents. Therefore they could not have been rejected on ground of unsuitability. The applicants should have raised this issue within period of limitation after being found unsuitable. They kept silent about it for five years and thereafter have raised this question. The counter reply shows that the applicants were considered for regular

posts along with others and were not selected while other persons were selected. Thus the unsuitability of the applicants was in comparison to others who were also considered and it was perfectly within the domain of the selection committee to ~~be~~ adjudged.

6. The applicants have raised the issue of hostile discrimination and have alleged that certain persons were engaged as Mazdoors subsequently on pick and choose basis. The respondents in their counter affidavit have explained as to how the persons named were inducted. Most of them were inducted in 1987 when a number of applicants were also called for interview. One of them was inducted on compassionate ground and one because he had completed 240 days in two consecutive years. The applicants have thus not been able to establish that they were similarly placed and that hostile discrimination was practised against them.

7. The applicants have relied upon Bhojani Alpesh Ramniklal Versus Union of India and others, A.T.R. 1988(1) C.A.T. 590. This case is of no help to the applicants because in this case the applicants had put in requisite number of days of service and were entitled to regularisation and had merely been rejected on ground of unsuitability while in case before us the applicants do not satisfy the criterion of eligibility laid down in Scheme of 1984. The applicants have also relied upon Bhagwati Prasad Vs. Delhi State Mineral Development Corporation A.I.R. 1990 S.C.

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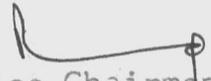
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continuance of service. The applicants in this case have been out of service since 1984 according to work certificates produced and since 1987 according to their ~~own~~ profession. In Rajkamal and others Versus Union of India and others (1990) 13 A.T.C. 478 and Jagrit Mazdoor Union Vs. Union of India and others (1990)13 A.T.C. 768, the regularisation was on the basis of scheme. In the case before us the applicants do not fulfil the criterion of scheme of 1984.

8. We, therefore, find no merit in the application and dismiss the same both on ground of limitation as well as merits.

9. There shall be no order as to costs.


Member (A.)


Vice Chairman

Nafees.