

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADD. BENCH

A L L A H A B A D

DATED: THIS THE 24<sup>th</sup> DAY OF APRIL, 1996

O.A.NO. 387/94

Hon'ble Mr. Justice B.C. Saksena  
Quorum: V.C.  
Hon'ble Mr. S. Das Gupta. A.M.  
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1. Lallu Dhar s/o Ram Sajiwan,  
r/o 136/8, Chandpur Salori,  
District Allahabad.
2. Sharda Singh s/o Ram Manohar Singh,  
R/O 2/2 Kariappa Road, Old Cantt.,  
District Allahabad.
3. Nand Lal s/o Ram Dhar Yadav,  
r/o Village Tarual, P.S. Mandhata,  
District : Pratabgarh.

----- Applicants

C/A Sri O. P. Gupta

VERSUS

- 1- Divl. Engineer Phone (Admn) office of Telecom,  
District Manager, Allahabad.
  2. Chief General Manager, Telecom. U.P. Circle, Lucknow.
  3. Union of India through Ministry of Communication,  
Govt. of India, New Delhi.
- Respondents

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1. Three applicants have joined <sup>in</sup> this O.A., seeking direction to the respondents to create and sanction 3 posts in group 'D' in quota reserved for physically handicapped persons and to appoint the applicants as regular 'D' employees to such posts with all consequential benefits.
2. The applicants have stated that they ~~are all handicapped persons that they~~ are all physically handicapped persons and they have worked as casual labours in different years under the control of respondents 1 & 2. The applicant no.1 has worked <sup>for a</sup> total period of 726 days, whereas applicant no.2 and 3 have put in total period of 434 days and 294 days respectively. Their names were sponsored by the Employment Exchange at the time of their initial appointment. It is stated that being physically handicapped, they are entitled for concession and preference in the matter of employment against quota reserved for physically handicapped persons. It is claimed that at present 3 percent of the total number of vacancies are reserved for such persons and the government of India has directed various departments from time to time to make strict compliance with the orders regarding appointment against such vacancies. The applicants made several representations for regularising the services as Group 'D' employees on the posts reserved for physically handicapped persons, but so far they have not been so appointed. It is stated that the respondents vide letter dated 6.3.1989 had regularised the services of 131 casual labours as group 'D' employees and another 87 casual labours vide their letter dated 24.9.1992. Later on vide letter dated 16.1.1993, 12 more casual labours were regularised

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and by letter dated 27.10.1993, 66 casual labours were regularised as group 'D' employees. Thus since March '89, 296 casual labours have been regularised, out of whom 28 are against scheduled caste quota. The respondents, however, did not fill up the posts reserved for physically handicapped persons. The applicants claim that even otherwise they should have been regularised as group 'D' employees as Hon'ble Supreme Court has held in several cases that the casual labours who have put in more than one year service should be regularised.

3. The respondents have filed counter affidavit, in which it has been stated that the applicants are not entitled to confirmation of temporary status or regularisation as they do not <sup>fulfil</sup> ~~have~~ <sup>legible</sup> criteria for this purpose. It is stated that a scheme has been formulated and a circular dated 7.11.1989 was notified for regularisation of casual labour employees in the department of telephones. Applicants do not fulfill the criteria laid down therein. It is further stated that according to that scheme, ~~that~~ a casual labour who has performed ~~worked~~ for one year prior to 30.3.1985 and was in continuous service till 1.10.1989 was being given temporary status. As the applicants were not in employment in the department on 1.10.1989 or thereafter and had left the job prior to 1.10-1989, they are not to be considered for confirmation for temporary status nor they are entitled for regularisation. It has been further averred that the government has reserved quota for appointment of physically handicapped persons, but physically handicapped persons are not to get any relaxation under the scheme of confirmation of temporary status or for regularisation.

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4. The applicants have filed Rejoinder, in which it has been reiterated that their claim for regularisation <sup>is</sup> against the reserved quota for physically handicapped persons and <sup>not</sup> under the departmental scheme for regularisation of casual labour employees.

5. We have heard learned counsels for the parties and perused the records.

6. It is not denied that the applicants are physically handicapped persons and that they have worked for <sup>certain</sup> periods under the respondents. It is, however, the case of the respondents that there is departmental scheme for regularisation of casual employees and the applicants do not fulfill the criteria laid down in the scheme. It has not been denied by the applicants. Their claim, however, is that they should be appointed in the quota reserved for physically handicapped persons. Respondents have stated <sup>as the</sup> that applicants are orthopedically handicapped persons, one percent of the post are to be reserved for them. However neither the applicants nor the respondents have annexed copy of the government order, regarding appointment of physically handicapped persons against the reserved quota. We cannot, therefore, ascertain whether applicants do have a right to be appointed against such quota. It is, <sup>however,</sup> further, clear that they do not fulfill the criteria laid down in the departmental scheme for the regularisation of casual employees.

7. In view of the foregoing, we cannot grant relief claimed by the applicants. We can only direct the respondents to consider the applicants also

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for appointment against group 'D' posts reserved for orthopedically handicapped persons in accordance with the government order in this regard, existence of which has not been denied by the respondents, as and when such reserved vacancies are filled.

8. The application is disposed of with the above direction, leaving the parties to bear their own cost.

  
A.M.

  
V.C.