

14.9.94

Hon'ble Mr. Justice B.C. Saxena, V.C.  
Hon'ble Mr. K. Muttukumar, A.M.

Through a misc. application filed in this O.A., the applicants have requested on the basis of letter dated 30.8.1994, filed as Annexure A-1 to the application, that a seniority list of the casual workers has been kept in security section of the Institution be summoned. It is also prayed that the following documents may also be summoned from the respondents;

1. the paid muster rolls since appointment of Casual Mazdoors in the aforesaid Institutes.
2. the casual employment cards of all the Casual worker in the aforesaid Institutes.
3. the Register of Casual workers Mazdoor working in the aforesaid Institutes.
4. the copy of the instruction issued by the I.C.A.R., New Delhi with regards the payment of minimum wages to the Casual workers.

We have heard the learned counsel for the applicant, Sri R.C. Pathak and learned counsel for the respondents.

The applicant through this O.A. has challenged the order of termination of his services and on the basis of certain Judgements rendered by this Tribunal and by Supreme Court, prays that a direction be issued to the respondents to regularize their services. In some of the O.A. photocopy of the registration has also been annexed. The applicant cannot be permitted to ask for the documents to fish out material instead of establishing his case on the basis of the averments and the documents contained in his pleadings. We, accordingly see no justification for issuing a direction to the respondents to produce the documents mentioned from sl.1 to 4 in the misc. application. Sri R.C. Pathak, learned counsel for the applicant in addition to his prayer in the application, made an oral prayer at bar that the respondents be required to produce the seniority list which is stated to have been kept in security section. Sri J.N. Tiwari, learned counsel for the respondents read out the letter dated 30.8.94, copy of which is annexed as Annexure A-1 to this application and we agree with his interpretation of the said letter that during the course of some talks, the list of casual employees yearwise and seasonal work was prepared and the same cannot be termed as the seniority list. By the letter dated 30.8.94, the applicants were directed to verify between 30.8.94

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to 01.9.94, whether their names have been included in the list? There is no averments in the application that the names of the applicants have not been shown in the said list. Sri J.N. Tiwari, learned counsel for the respondents, on the other hand, has made a categorical statement before us that the said list is yearwise indicating the number of days working of all the applicants and it does not contain any date of appointment.

In view of the above, the oral request of summoning the documents stated to have been kept in security section of the Institution is not justified. The misc. application is accordingly rejected and disposed of.

Hearing is not completed. Put up tomorrow for further hearing.

The interim order, if any, passed in the case shall remain operative till the next date of hearing.

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15-9-94 Hon. Justice B.C. Saxena v.c  
Hon. K. Madhav Kumar A.M.

Due to lawyers strike, the case is adjourned to 19-9-94 for further hearing.

Order passed earlier shall hold good till then.

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19/9/94

Hon<sup>ble</sup> Mr. Justice B.C. Saksena, V.C.  
Hon<sup>ble</sup> Mr. K. Muthukumar, A.M.

This petition was taken up for final hearing and was heard on 14.9.94. On that date hearing was not concluded and was directed to taken up today as part heard matter. Counter-affidavit and Rejoinder-affidavit had already been exchanged. Today on behalf of the applicants, Sri V.K. Goel, counsel has put in appearance and he prays that 2 weeks time be granted since, in his opinion, the pleadings in the petition required to be amended.

Since, it is belated stage for such a request, to be entertained, we are not inclined to entertain the same. Sri V.K. Goel, learned counsel for the applicant states that he may be permitted to amend the petition and since that will entail adjournment of the case, the applicants have no objection that interim order passed in their favour are vacated. We accept the said suggestion of the learned counsel for the applicants. We grant two weeks time to file the amendment application. Copy of the amendment application may be served on learned counsel for the respondents outside the Court. If, respondents have any objection or wish to file the Counter to the amended paras of the O.A., they may do so within next two weeks. The interim order, if any, passed in the O.A., is vacated. List the O.A. on 08.11.94 for final hearing.

Received notified  
on Behf of J. N. Tisri  
Pr. 25/10/94  
7/10/94

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Misc Appl. No 2605/94  
has been filed on  
25-10-94 & kept as  
records.

No c.A. has been  
filed so far.

J. N. Tisri  
7/11/94

MP2605/94

Q. in OA 1136/94

8.11.94 Hon. Mr. Justice B.C. Saksena, V.C

Hon. Mr. S. Das Gupta, A.M.

Through this misc. application the applicants have indicated that they are poor class IV daily wagers and are not in a position to file detailed amendment application as has been filed by the colleagues in O.A. 1336/93. The applicants of this O.A. therefore seek permission to adopt facts mentioned in paragraph 3 of the amendment application made in O.A. 1336/93 and the said facts may be read as part of the present O.A. No doubt this Tribunal is not hampered by any procedural rules; it can lay down its own procedure. <sup>v. but</sup> The prayer in this application <sup>v. if granted,</sup> will lead to a very strange procedure and therefore we do not think it proper to grant the same. This O.A and also the other OAs concerning similar facts and reliefs in O.A. 1336/93 are being heard together and O.A 1336/93 can be taken to be the leading case for the purposes of a common judgment which may be pronounced disposing of the other connected matters. It is not necessary to state that on the basis of the facts indicated in the amendment application filed in O.A. 1336/93 will give rise to certain legal propositions. On the basis of the pleadings already made by the parties in each of the other O.As if we feel satisfied that the applicants of the other O.As are similarly circumstanced as the applicants of the O.A 1336/93, there will be no difficulty in adjudicating their rights in the light of the legal principles and propositions which we may find as arising while deciding the leading O.A. The O.A be put up tomorrow.

With these observations the application is

rejected

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