

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 635 of 2000

Allahabad this the 02nd day of August, 2001

Hon'ble Mr.S.K.I. Naqvi, Member (J)

1. Association of Casual Labourers of Post Offices of Gorakhpur Division through its President Shri Sidhnath Srivastava.
2. Sidh Nath Srivastava, aged about 38½ years S/o Late Shri Baijnath Srivastava, R/o EWS 442 Shastrinagar Colony, Gorakhpur Mandir, Gorakhpur-273015, employed as Casual Chowkidar, Head Post Office, Gorakhpur.

Shri J.M. Sinha
By Advocates Shri Avnish Tripathi

Applicants

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi-110001.
2. Senior Superintendent of Post Offices, Gorakhpur Division, Gorakhpur-273001.
3. Postmaster General, Gorakhpur Region, Gorakhpur-273008.

Respondents

By Advocate Shri Satish Chaturvedi.

O_R_D_E_R (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

The association of casual labours of Post Office of Gorakhpur Division through its President

Shri Sidh Nath Srivastava have filed this O.A. for redressal of grievance of 11 of its members ^{"deen"} who have mentioned in para-(a) under head "Particulars of applicants". The reliefs sought for through this O.A. stand as under;

- "1. That the Hon'ble Court may graciously be pleased to direct, order or command the respondents to make the scheme rational so that the members of the applicant association have a chance defacto for their de jure absorption in Group D cadre by reserving 50% of the vacancies occurring in group D cadre in a year for the suitably qualified Temporary status casual labourers. However, vacancies unfilled in quota may go to EDAs.
2. That the Hon'ble Tribunal may graciously be pleased also to issue orders, directions or command to the respondents to enforce the statutory provisions of paragraph no.17 of annexure no.a.1 and absorb all eleven members of the association against vacancies occurring since 12.4.91, deeming that no outsider (EDA) was appointed against such post and arranging superannuity post for EDAs recruited against the restriction imposed by the para-17 of annexure A-1.
3. That consequent on absorption in Group D the temporary status casual labourers should not draw the emolument lesser than what they had been drawing as such.
4. That the cost of the suit may be awarded in favour of the applicant against the respondents.
5. That the Hon'ble Tribunal may be pleased to award such other reliefs to which the applicants may subsequently be found entitled to."

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2. The respondents have contested the case and filed the counter-reply.

3. The backdrop of the matter relates to ^{employees} dis-satisfied amongst the casual labours in the postal department, who approached the Hon'ble Apex Court in Writ Petition No. 373 of 1986, which was taken up as Daily Rated Casual Labour employed under P&T Department through Bhartiya Dak Tar Mazdoor Manch Vs. U.O.I. & Ors. and Writ Petition No. 302 of 1986 National Federation of P&T Employees through its Secretary General and another Vs. Union of India and another. These two petitions were decided by a common judgment on October 27, 1987 and reported as (1987)5 A.T.C. 228. Their Lordships at Apex Court dealt the matter at length taking into consideration the service condition and the mode of recruitment as well as future service prospects of daily rated casual labourers and decided the case with the direction "we, therefore, direct the respondents to prepare the scheme on a rational basis for absorbing as far as possible the casual labourers, who have been continuously working for more than one year in the Posts and Telegraphs Department." In compliance of these directions, the Department of Posts formulated a scheme as D.O.P. Letter No. 45-95/87-SPB I dated 12.4.91 as "Casual Labourers] Grant of Temporary Status and Regularisation] Scheme in Department of Posts. Copy of this scheme has been annexed as annexure A-1 to the O.A. The letter dated 16.8.1991 from A.D.G., New Delhi

addressed to all Chief Post Master Generals is said to be further clarification of the Scheme circulated through letter dated 12.04.1991.

4. In the present matter the applicants have a grievance that the scheme is not being implemented in its letter and spirit resulting into stagnation in the service and the applicants who are working for good long period of time, have not been provided with any augment in their service condition and their promotional avenues have been blocked.

5. Heard Shri Avnish Tripathi, counsel for the applicants and Shri Satish Chaturvedi, counsel for the respondents and perused the record.

6. From the side of the applicants, it has been pressed that as per direction by the Hon'ble Apex Court, Ministry of Communication were to make a rational scheme for absorbing casual labourers and accordingly the scheme was prepared, copy of which is annexure A-1. In para-17 thereof, they have assured that there is no recruitment from open market for Group 'D' posts except ^{as s.} compassionate appointment, and the posts will be filled by the casual labourers, but they have made amendment in para-7 through annexure A-2 which adversely affects the claim of the applicants. It has also been mentioned that the vacancies in Group 'D' ^{have} ~~has~~ to be filled in order of seniority and as per their

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cadre strength, no casual labour would ever get any benefit of it.

7. From the side of the respondents, it has been mentioned that the scheme has been formulated in accordance with direction from Hon'ble Supreme Court and is being implemented accordingly without any deviation or discrimination.

8. Keeping in view the facts and circumstances of the matter it is found that the applicants have sought for relief to the effect that the respondent-s be directed to make a scheme so that members of the applicants association ^{may} have actual chance for their legal absorption in Group 'D' cadre by reserving 50% of the vacancies. I do not think any such direction is possible to supersede the already existing directions by the Hon'ble Supreme Court. If the applicants are facing some difficulties on practical side, because of implementation of the schemes, as referred above, they may approach the proper forum, which is not this Tribunal.

9. The applicants have also sought the relief for direction to enforce the statutory provision as contained in para-7 of the scheme(annexure A-1) and the respondents be directed to absorb all the eleven members of the Association against the vacancies occurring since 12.04.1991. It has -also been prayed that consequent upon absorption in group 'D', the temporary-status-casual labourers should not be allowed to draw emoluments lesser than what they have been drawing as

such. Considering the facts and circumstances of the matter in the light of the observation by the Hon'ble Supreme Court and scheme prepared in compliance thereof, I do not think such a relief can outrightly be granted, unless and until the individual service record is examined and over all cadre position is taken into consideration and, therefore, the applicants may approach the authorities concerned giving their service particulars as per individual case and their claim with reference to scheme and the rules in this regard.

10. I, therefore, direct the respondents that in case the applicants make a representation in the light of above observation within two months, same be decided within three months thereafter by the competent authority, and a detailed, reasoned and speaking order be passed taking into consideration the service condition, the direction by the Hon'ble Apex Court, the scheme prepared a-s per annexures A-1, A-2 and the rules in this regard. The O.A. is disposed of with these directions. No order as to cost.

SCC 12-097
Member (J)

/M.M./