

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NO.313 OF 2003

ALLAHABAD THIS THE 27th DAY OF MARCH, 2006

HON'BLE MR. K. B. S. RAJAN, MEMBER-A

1. Prakash Chandra,
aged about 32 years,
Son of Shri Sahdeo.
2. Harpal, aged about 32 years,
Son of Shri S. Lal.
3. Goga, aged about 32 years,
Son of Shri Chhotto.
4. Ashok Kumar,
aged about 31 years.
Son of Shri Ram Kamal.
5. Ram Adhar, aged about 32 years,
Son of Shri Ram Lal.
6. Ram Swaroop, Aged about 32 years,
Son of Shri ram Charan.

All Applicants are resident of Military Farm,
Kanpur.

. Applicants.

By Adv: Shri K.K. Mishra

Versus

1. Union of India, through the Secretary,
Ministry of Defence,
Army Headquarter, New Delhi.
2. The Deputy Director General,
Military Farm,
Army Headquarter, QMG's Branch,
R.K. Puram, West Block III,
New Delhi.
3. The Director,
Military Farm, Headquarter,
Central Command,
Lucknow-2.
4. The officer Incharge,
Military Farm,

Kanpur.

5. Siya Ram, Son of Shri Ujagar,
Posted at Military Farm,
Jammu.
6. Sunder Lal,
Son of Shri Prasadi.
7. Sidh Nath,
Son of Lalauna.

All these Private Respondents, who stands at serial no.5 to 7 are posted at Military Far, Jammu (J&K).

. Respondents.

By Adv.:Shri N.C. Nishad for respondent nos.1,2,3&4 and Shri S. Singh for respondent No.5 to 7 (Absent)

O R D E R

By K.B.S. Rajan, Member-J

The relief sought in this OA by the applicants

1 to 6 are as under: -

- a) *"That this court my graciously be pleased to allow this O.A. directing the respondents to regularize the services of the applicants in Group 'D' posts w.e.f. 20.9.2002 in preference to respondent's no.5 to 7 who are junior to the applicants.*
- b) *That this Court further be pleased to pass such other and/or further order as my be deemed necessary in the circumstances of the case."*

2. Briefly stated the applicants were employed as Casual Labourers in the respondents organizations since long and by a specific order dated 28.12.1995; the respondents have accorded temporary status to a number of casual labourers, which include the applicants, in accordance with the provisions of Ministry of Defence letter dated 14.10.93. It is thereafter that by giving one

months' notice the respondents have terminated the services of the applicants vide order dated 26.2.97. According to the applicants such a termination was illegal and further juniors to the applicants were allowed to continue. As such, on the ~~the~~ moving OA316/97, this Tribunal vide its order dated 14.3.01 passed the following order: -

"The O.A. is partly allowed. The respondents are directed to re-engage the applicants in accordance with relevant rules and instructions, subject to availability of work and give the applicants preference over juniors and outsiders. They would also be entitled to other benefits as provided under the OM. Dated 10.09.1993, subject to their fulfillment of the conditions".

3. Despite the above directions as the respondents have failed to regularize the services of the applicant and rather engaged the applicant through the medium of a contractor, the applicant have now come up in this OA with the relief as stated in para 1 above.

4. The respondents have contested the case. According to them the work in the military form has been considerably reduced and the pay commission recommended reduction of the compliments and accordingly all casual labourers were disengaged. In fact, even regular staff~~s~~ were stated to have been declared surplus. It has also been contended by the respondents as under: -

- a) O.A. No.1266/97, this Tribunal has passed order "no establishment can be forced to engage or employ the person over the

sanction strength and therefore no direction is legally possible but it is provided that whenever occasion arises and the casual labourers are engaged due priority be given to the applicants keeping in view the days they have worked in the respondent establishment".

- b) That in reply to the contents of paragraphs No.4(18) of the original application, it is stated that the applicants were conferred temporary status w.e.f. 1.1.96 based on the Govt. orders on the subject. Now the circumstances have completely been changed due to reduction in PE. Govt. of India can reduce/abolish any post based on the financial grounds of the concerned department. Hon'ble Supreme Court has also issued clear cut directions on reduction/abolition of post."

5. Arguments were heard and documents perused. The counsel for the applicant submits that in a number of other OAs when directions have been issued for reengagement ~~after~~ taking positive actions of calling for option by such disengaged casual labourers whether they were prepared to move to other areas. The counsel for the applicant submits that such a treatment to the applicant would meet the ends of justice.

6. The counsel for the applicant further submits that the respondents are indulging in unfair labour practice by engaging the applicant through

contractors and he invited the attention of this Tribunal to para 24 of the OA which, along with its reply thereof is as under: -

- a) "That it is respectfully submitted that engagement of Contractor Labourers scrapping the temporary status of applicants are wholly improper, illegal and violative of Article 14 and 16 of the Constitution of India.
- b) That the contents of paragraph No. 4 (24) of the original application need no comments."

7. Considering the entire conspectus of the case and keeping in view orders passed in a number of cases of identical nature this OA is disposed of with a following directions to the respondents: -

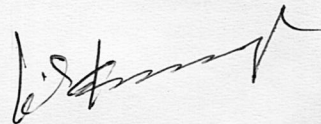
- a. The respondents shall include the names of the applicants in the seniority list prepared by them for the purpose of reengagement of such disengaged casual labourers (this information is known as per the affidavits filed on behalf of the respondents in CCA no.97/03 in OA)
- b. The respondents shall forthwith ask for necessary option from the applicants as had been done in other cases.
- ✓ c. In accordance with the seniority of the applicants and subject to the applicants' exercising their option as and when the vacancies arise they shall be given the offer of appointment either on casual basis or otherwise the case may be.



d. After such engagement the temporary status already granted to the applicants shall be revived and restored and in accordance with the rules regularization in Group D post shall be considered.

e. Should for any such regularization any age relaxation is warranted the same shall be favorably considered.

8. In so far as calling for the option is concerned vide direction no .b above the same shall be complied with, within a period of two months from the date of communication of this order. No costs.



Member-J

/ns/