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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 327 of 1990.
~~TAX No.~~

DATE OF DECISION 29/09/1993.

Shri Ishwar Gulabbhai Kanujia and ors. Petitioner

Shri K.K.Shah Advocate for the Petitioner(s)

Versus

Union of India and ors. Respondent

Shri Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt : Member (J)

The Hon'ble Mr. M.R.Kolhatkar : Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✗
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✗
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✗

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1. Ishwar Gulabbhai Kanujia,
2. Kodarlal Dayanand Gandhi,
3. Lalman Singh Puranchand Rajput,
4. Bhireshkumar Limbu,
5. Kashiram Nageshwarprasad Kori,

All are working as Mazdoor/Casual Labour
in Canteen Stores Department,
Near Sardar Bazar,
Cantonment,
Ahmedabad.

Notices : C/o. Kiran K. Shah,
Advocate,
3, Achalayatan Society, Div. III,
Nr. Memnagar Fire Station,
Navrangpura, Ahmedabad.

...Applicants

(Advocate : Mr. Kiran K. Shah)

Versus

1. Union of India,
Notice to be served through,
General Manager,
Canteen Stores Department,
(Ministry of Defence),
"Adelphi",
Maharshi Karve Road,
Bombay - 400 002.
2. Manager-in-charge,
Canteen Stores Department,
Opp : Green Open Air Cinema,
Near Sardar Bazar,
Cantonment,
Ahmedabad

...Respondents.

(Advocate : Mr. Akil Kureshi)

ORAL JUDGMENT

O.A. NO. 327 OF 1990.

Dated : 29/09/1993.

Per : Hon'ble Mr. M. R. Kolhatkar : Member (A)

This is an application under Section 19 of the
Administrative Tribunals Act, 1985 filed on 16.7.1990.

The five applicants claimed to be Mazdoor casual labourers
appointed through employment exchange in the Canteen
Stores Department, under the control of Ministry of Defence,

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Government of India, and claimed to have completed more than 240 days' continuous service in the year preceding their alleged oral termination w.e.f. 5.1.1989. The applicants in fact claim to have worked from 20.9.1985, 1.6.1986, 6.2.1986, 4.7.1986 and 12.12.1985 respectively. Applicant No.4 (Kashiram) reportedly expired after filing the application. The applicants contend that the Canteen Stores Department is an industry and the oral termination/retrenchment without complying with Section 25-F of Industrial Disputes Act, is illegal. They also claim promotion under Article 14, 16 and 311 of the Constitution. The applicants have prayed for quashing and setting aside the termination orders as illegal, null and void and for any other orders in the interest of justice. The say of the respondents is that applicants were daily rated workers, appointed after 7.5.1985 which is the crucial date for promotion by way of regularization and that Canteen Stores Department being a subordinate office of the Ministry of Defence is not ^{an industry} ~~in duty~~. The applicants have contended that ^{It is not so} in terms of Supreme Court Judgment in Radhu K. Kakde Vs. Union of India and ors. (AIR 1986 SC 291). In our orders dated 03.02.1993, we had requested the respective parties to produce certain documents, which have not been produced so far. Today we have heard the learned advocates, Shri K.K.Shah for the applicant and Shri Akil Kureshi for the respondents. After going through the pleadings

and the documents on record and after hearing the respective parties we feel that it may be possible for us to dispose of this application without insisting of production of additional documents. We are given to understand that some Mazdoor casual labourers similarly situated have been accommodated by the respondents and that there are likely to be vacancies under the control of the respondents against which it may be possible for the respondents to adjust four of the applicants, the fifth applicant ^{as noted} in the ^{and we waive formalities of Rule 18 of Procedure Rules} meanwhile having, expired. A dvocate for the applicant no.1, ^{to} ~~and~~ 4 under instructions from his client makes a statement at the Bar that applicant no.1 to 4 waive their claim to back wages in case their case ^{for} ~~their~~ appointment is considered sympathetically by the respondents. We therefore, pass the following order :

ORDER

1. On application by applicant no.1 to 4, respondent no.1 is directed to consider their case for appointment as Mazdoors in the Canteen Stores Dept., preferably at Ahmedabad Depot but failing which at other places where the posts may be available.
2. Keeping in view the contention of the applicant that some of the Mazdoors appointed later than the applicants have been regularised, the question of regularising the applicants


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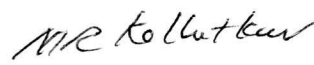
No.1 to 4 with the benefit of seniority of the respective original date of engagement may be considered. Their claim for consequential benefits of regularization with seniority, other than the benefits for back wages may also be considered by the respondent.

3. So far as the applicant No.5, late Shri Kashiram is concerned, who, ~~is~~ reportedly survived by his widow and two children, the respondents are directed to make an ex-gratia lumpsum payment of Rs.10,000/- on an application being received from the widow of applicant No.5 ~~win~~ in this regard. The respondents may also consider appointment of the widow of deceased applicant No.5, to a suitable post in the organisation, ~~in~~ case she makes an application in this regard.

The respondent No.1 is directed to take action as indicated above within 10 ~~days~~ ^{weeks} of the date of receipt of this order, On the footing that the requisite applications are received within 2 weeks the receipt of the order.

No order as to costs.


(R.C.Bhatt)
Member (J)


(M.R.Kolhatkar)
Member (A)