

36

36

O.A. 192/96.

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

For hearing.
 Fatma Bench
 31/1/01

32. 10. 01. 2001

Lawyers have abstained from court work
 No time for the day.
 Adjourned to 01.02.2001.

MA. 913/2K to lie over.

S. J. M.
 vice-chairman
 (SJM)
 Member (J)

33. Order dated 01.02.2001

In this Original Application 31 applicants have prayed for a direction to departmental Respondents (Res. 1 to 4) to regularise their services in Group D posts in accordance with Office Memorandum dated 26.7.1988 (Annexure-2) and Office Memorandum dated 13.10.1983, which has been circulated in letter at Annexure-3. The departmental respondents have filed their counter opposing the prayer of the applicants and applicants have filed rejoinder. Private Respondents 5 to 13 were issued with notices, but they have neither appeared nor filed any counter.

For the purpose of considering this petition it is not necessary to go into too many facts of this case. As earlier noted, applicants want regularisation of their services against Group D posts in terms of two circulars referred to earlier and enclosed by the applicants along with this O.A. In course of hearing it was submitted by Shri B. Nayak, the learned counsel for the petitioners that he does not press his prayer for regularisation, as according to Schemes in force, applicants are to be conferred with Temporary Status and thereafter such casual workers with Temporary Status are to be regularised against Regular Group D posts. In view of this Shri Nayak confines his prayer for direction to Respondents 1 to 4 for

J. J. M.

examining the cases of the applicants for conferment of Temporary Status.

Respondents (Res. 1 to 4) have stated that the applicants have not worked as casual workers, much less from 1982. It has been stated by them that none of the applicants have completed 240 days of engagement as casual labourers for two consecutive years. This is strongly contested by the learned counsel for the petitioners. It is submitted by the learned counsel for the petitioners Shri B. Nayak that departmental respondents have prepared draft seniority list of casual labourers, which has been challenged by some of the casual labourers, including some of the applicants in the present O.A. in O.A. 559/2000 and therefore, Shri Nayak wanted that this matter should be taken up along with O.A. 559/2000, for which he has filed M.A. 913/2000. Heard learned counsels of both sides on this M.A. As fixation of seniority is a different cause of action and as the seniority list is yet to be finalised, this matter cannot be dragged on along with O.A. 559/2000 for disposal. It is submitted by Shri Nayak that the departmental respondents, in order to deprive the applicants of their dues have deliberately produced certain records along with Annexures, which do not reflect the correct position so far as the dates of initial engagement of the applicants as also their period of engagement in different **Calendar Year** are concerned. It is submitted by the learned counsel for the petitioners that he will be satisfied if a direction is issued to the departmental authorities, more particularly Res. 3 and 4 to examine the cases of the applicants for the purpose of conferment of Temporary Status on them strictly in accordance with circulars and instructions which are applicable in such cases. It is also submitted by Shri Nayak that there are records available with the Respondents viz. Muster Roll and Wage Register, which correctly reflect the **period** of engagement of the petitioners as also the dates of initial engagements and if these documents are taken into account then the applicants' cases will be fully covered by the

38

38

OA-192/96

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

existing circulars. In consideration of this, we have heard learned Sr. Standing Counsel Shri A.K. Bose at some length, who has no objection to the applicants' case being examined in accordance with rules.

In view of this, this O.A. is disposed of with a direction to Res. 3 and 4 to examine the cases of the applicants for the purpose of conferment of Temporary Status on them with reference to their dates of initial engagements and period of engagement as reflected in the Muster Roll and Wage Register. This exercise should be completed within a period of 90 (Ninty) days from the date of receipt of this order. In case, after such examination the departmental authorities confer Temporary Status on any of the applicants, then they will naturally be entitled to benefits of conferment of Temporary Status with regard to seniority etc.

O.A. is disposed of accordingly. No costs.

MEMBER (JUDICIAL)

VICE-CHAIRMAN

1/2/2001

S. O.

Free copy of order
off. 1-2-2001 may be
given to the counsel
for both sides.

18
8/2/2001