

..... O.D. NOS. 275, 276 & 277 OF 2002

ORDER DATED : 25/2/February, 2004.

Since common question of facts and law are involved in all the above mentioned three cases, this common order will decide the issues raised therein.

2. In these batch of three cases, all the Applicants were engaged as Casual Labourers (under Respondent No. 2) since 2-2-2001 and their services having been dispensed, (with vide Annexure-4 dated 01-02-2002); they have approached this Tribunal in the present Original Application under Section 19 of the Administrative Tribunals Act, 1985; wherein it has been prayed to quash the impugned order of termination under Annexure-4 and for direction to the Respondents to regularise their services. It is their further prayed that the Respondents be directed to pay them the salary in the regular scale of pay.

3. The Respondents have filed a detailed counter opposing the prayer of Applicants. The stand taken by the Respondents is that in order to get-rid of the pressure of work, the casual engagements were given to the Applicants for three months and extended beyond the said three months and, as there are no pressure of work now, they are sought to be disengaged.

....

10
Contd.,...,order dated 25th February, 2004.

It is their further case that the extension of Casual engagements having not been approved by the Ministry Applicants have been dis-engaged from service. Lastly, they have submitted that the Applicants, having accepted the terms and conditions as set-out in their order of appointments, can neither claim regularisation or the salary, as that of regular employees in the Department.

4. In the above premises, Shri K.C. Kanungo, Ld. Counsel appearing for the Applicants and Shri Uma Ballav Mahapatra, Learned Additional Standing Counsel, appearing for the Respondents have been heard and the materials, available on records, have been perused.

5. It is the admitted position of the parties that the Applicants were recruited, through the Employment Exchange and engaged on Casual basis. It is also the admitted fact that the Applicants were discharging the duties of routine nature (by assisting the Passport Office) for clearing back log/arrears of work.

6. The case of the Respondents is that even though there are four vacancies in Passport Office, Bhubaneswar, viz., one Superintendent, One Assistant, one Stenographer and One Night Watchman and that the Casual Labourers having fulfilled the eligibility criteria could be regularised against Group 'D' posts.

....

Contd... Order dated 25th February, 2004.

7. Whether the work exists in the Department or not; it is the Respondents, who are the best persons to decide. Apparently, the Ministry has not approved the extension of the Casual Labourers in the Respondent-Department, since there does not exist the pressure of work. In this view of the matter, it would not be proper for this Tribunal to direct the Respondents to allow the Applicants to continue in their casual engagements and/or to regularise their services in the absence of regular vacancies. In the aptness of things, I would like to point out that once post of Night Watchman, as per the averment of the Respondents is lying vacant in the Office of Respondent No. 2. In consideration of this, I would direct the Respondents to draw a seniority list of casual labourers recruited through the Employment Exchange and consider the case of senior most casually engaged person/Applicant for regular absorption against the said post; subject to his suitability and fulfilling the eligibility conditions as per Rules.

8. As regards the further continuance and/or regularisation of the Applicants, I would direct the Respondents-Department, if the posts held by the Applicants herein, are extended by the Ministry, then they may be allowed to continue in such casual engagements. So far as their prayer for regularisation/absorption is concerned, it is held that their cases should be considered (in preference to other outside candidates)

....

Contd... Order dated 25/2/February, 2004.

as they have already been selected for Casual engagements through Employment Exchange, if at all sanctioned/regular posts are there, against which the Applicants can be suitably absorbed/regularised.

9. In the result, this original Applications stand disposed of, in the above terms. No costs.

Sd/- M.R. Upadhyay
Member (S)