

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 298/1999 alongwith 199
L.A. No. 04 batches (by common order)

DATE OF DECISION : 25.02.2000.

Rabind Pal & Ors.

Petitioner(s)

Mr. J.K. Kaushik,

Advocate for the Petitioner (s)

in all OAs (except in OA No.321/99) & Mr. Sunil Beniwal, Adv.,
Versus

in O.A. No.321/1999.

Union of India & Ors.

Respondent(s)

Mr. Vineet Mathur,

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. A.K. Misra, Judicial Member

The Hon'ble Mr. Gopal Singh, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? NO
2. To be referred to the Reporter or not ? yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? NO
4. Whether it needs to be circulated to other Benches of the Tribunal ? NO

Gopal Singh
(Gopal Singh)
Adm. Member

A.K. Misra
(A.K. Misra)
Judl. Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR

Date of order : 25.02.2000

1. O.A. No. 298/99

1. Rabind Pal son of Shri Ramsaran Pal aged about 20 years resident of CCBF Campus, Suratgarh Distt. Sri Ganganagar.
2. SurajBhan Pal son of Shri Ram Kuwar Pal aged about 23 years resident of CCBF Campus, Suratgarh District Sri Ganganagar.
3. Ramdular Pal son of Shri Vasropan Pal aged about 23 years resident of CCBF Campus, Suratgarh Distt. Sri Ganganagar.
4. Mohd. Mustafa son of Shri Ismile Khan aged about 22 years resident of near RCP Stores, Ward No.10, Suratgarh District Sri Ganganagar.
5. Nashruddin son of Shri Ismile Khan aged about 23 years resident of near RCP Stores, Ward No.10, Suratgarh District Sri Ganganagar.
6. Yashpal Singh son of Shri Ram Prakash aged about 24 years resident of RCP Tar Colony, Near Durga Mandir, Suratgarh Distt. Sri Ganganagar.
7. Sohan Lal son of Shri Amar Chand aged about 27 years resident of Ward No.12, Near Nagar Palika Office, Suratgarh District Sri Ganganagar.

All applicants employed as Temporary Mazdoor (Casual Labour) in 2, Amn Coy (24 FAD), C/o. 56 APO.

... Applicants.

2. O.A. No. 310/99

1. Keshav Singh son of Shri Ramsaran Pal aged about 23 years resident of RCP Tiba Colony, Suratgarh, District Sri Ganganagar.

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2. Preman Nand Pal son of Shri Raja Ram Pal aged about 25 years resident of Goga Mandir, Suratgarh, District Sri-Ganganagar.
3. Naib Singh son of Shri Jodh Singh aged about 23 years resident of village & P.O. Bhagwansar, Suratgarh, District Sri Ganganagar.
4. Om Prakash son of Shri Kalu Ram aged about 24 years resident of 28 PBN, Bhagwansar, Suratgarh, District Sri-Ganganagar.
5. Lal Bahadur son of Shri Dhan Bahadur aged about 23 years resident of near S.K. Model School, Bhopal Road, Suratgarh District Sri Ganganagar.
6. Ramswaroop son of Shri Badri Ram aged about 24 years resident of 28 PBN, Bhagwansar, Suratgarh, District Sri-Ganganagar.

All applicants employed as Temporary Mazdoor (Casual Labour) in 2, Amn. Coy (24 FAD), C/o. 56 APO.

... Applicants.

3. O.A. No. 321/99

1. Ramesh son of Shri Ram Pal aged about 31 years resident of Lalooram-Ki-Dhani, opposite Cloth Mill, Purani Abadi, Sri-Ganganagar.
2. Pramod Kumar son of Shri Raj Narain Pandey aged about 30 years resident of House No.35, Ward No.1, Devnagar, Sri-Ganganagar.
3. Om Prakash son of Shri Sumer Ram aged about 29 year resident of village & P.O. Kalian, Tehsil Sri-Ganganagar District Sri-Ganganagar.
4. Dharam Pal son of Pyara Lal aged about 30 years resident of village 2-M-L Bhatta Colony, Sri-Ganganagar.

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All above applicants employed on the post of Casual Labour in the office of 24 Field Ammunition Depot (FDA), C/o. 56 APO.

... Applicants.

4. O.A. No. 326/99

Raj Kumar Gandhi son of Shri Shiv Shanker Gandhi aged about 23 years resident of Purana Loco, Ward No. 29, Railway Colony, Suratgarh, at present employed as Temporary Mazdoor (Casual Labour) in 2, Amn Coy (24 FAD), C/o, 56 APO.

... Applicant.

5. O.A. No. 378/99

1. Gouri Shanker Verma son of Shri Kana Ram aged about 24 years resident of Sidharth Colony, H.No. 30, Near Hanuman Nagar Post 5-E Chhote, District Dungarpur.
2. Sahib Ram son of Shri Nathu Ram aged about 23 years resident of village & P.O. Kalian, Distt. Sri-Ganganagar.
3. Atam Prakash son of Shri Devi Dayal aged about 24 years resident of village & P.O. Kalian, Distt. Sri-Ganganagar.
4. Dharam Vir son of Shri Munsi Ram aged about 23 years resident of H.No. 65, Laxmi Nagar, Pt. Deen Dayal School-Ke-Pichhe, 3-E-Chhote, Sri-Ganganagar.
5. Rajesh Kumar son of Shri Girdhari Lal aged about 23 years resident of village & P.O. Sahuwala, 3 AF & 4 AF Chhote Tehsil, Distt. Sri-Ganganagar.
6. Bahawal Deen son of Shri Ali Mohd. aged about 21 years resident of village Pathanwala 17 ML 41, Khayalia, Sri-Ganganagar.
7. Roop Chand son of Shri Hari Chander aged about 25 years resident of 1-ML (Kaluwala), Post 6-LNP, Sri-Ganganagar.

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8. Lakhpal son of Shri Bhajan Singh aged about 23 years resident of village Chuck-15 SGR, Post Sardarpura Bika, Tehsil Suratgarh, Sri-Ganganagar.

All applicants employed as Temporary Mazdoor (Casual Labour) in 24 FAD, C/o. 56 APO.

... Applicants.

v e r s u s

1. Union of India through Secretary to Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.

2. The Director General of Ordnance Services, Army Headquarters, DHQ PO, New Delhi.

3. The Commandant, 24 Field Ammunition Depot, C/o. 56 APO.

4. Officer Incharge, 12 Ammunition Company (24 FAD), C/o. 56 APO.

... Respondents.

Mr. J.K. Kaushik, Counsel for the applicants in all OAs (except in OA No. 321/99).

Mr. Sunil Beniwal, Counsel for the applicants in O.A. No. 321/1999.

Mr. Vinit Mathur, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

O R D E R

(Per Hon'ble Mr. Gopal Singh)

In all these applications filed under Section 19 of the Administrative Tribunals Act, 1985, the controversy involved as also the relief sought is the same, therefore, all O.As are being disposed of with this common order.

2. Applicants' case is that on being sponsored by the local Employment Exchange in the month of July, 1998, and after having

Gopal Singh

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been declared fit for employment as Casual Mazdoor, the applicants were appointed by the respondents on 19.7.99 as Casual Mazdoor. They had also undergone medical examination and their character antecedents have also been verified through the District Magistrate, Sriganganagar before they were appointed as Casual Mazdoor. The respondents have discontinued the engagements of the applicants with effect from 16.10.99. In the meantime, the respondent-department advertised for filling up 47 posts of regular Mazdoors through Employment Exchange/local newspaper and the interview for the same was fixed on 2.11.99. It is the contention of the applicants that they have been recruited as per the prescribed procedure, though as Casual Mazdoors and have also passed the medical examination and further, their character antecedents have also been verified by the respondents, they should be treated as good as regular Mazdoors and accordingly, they have prayed for setting aside the impugned notification published on 26.10.99 (Annexure A/1 in OA 310/99) in Dainik Sama Sandesh Newspaper and further for a direction to the respondents to treat the applicants as duly appointed against regular posts of mazdoor and not to terminate the services of the applicant.

3. By way of interim relief, the applicants have prayed for a direction to the respondents not to proceed with the recruitment in pursuance with the impugned notification dated 26.10.1999, till finalisation of the case. By our interim order dated 1.11.99 (in OA No. 310/99), the respondents were restrained from recruiting fresh mazdoors against the notified 47 vacancies in pursuance of Annexure A/1 dated 26.10.1999, till the next date of hearing.

4. Notices were issued to the respondents and they have filed the reply. It has been contended by the respondents that the applicants were recruited as Casual Mazdoor only for 89 days against casual vacancies. 47 vacancies of regular mazdoors were sanctioned vide respondent's letter dated 9.9.99 (Annexure R/3). In this letter, it was also mentioned that casual labourers will not be adjusted into a permanent category from the above vacancies. They can apply afresh for direct recruitment as per existing instructions. Therefore, it is the contention of the respondents that the applicants cannot be regularised against regular posts which have now been sanctioned vide Annexure R/3. It has also been contended by the respondents that working as a casual

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mazdoors for 89 days does not bestow any right to the applicants for regularisation against the newly sanctioned post of regular mazdoors. The learned counsel for the respondents have cited number of judgements in this regard. It has, therefore been submitted by the respondents that the applications do not deserve any consideration and, therefore, be rejected.

5. We have heard the learned counsel for the parties and perused the records of the case.

6. It is seen from the requisitions sent to the Employment Exchange for employment of casual labourers and for employment of regular mazdoors (Annexures R/2 and R/4 in OA No. 310/99) that the nature of duties as also the requisite qualifications for both types of mazdoors are the same. The respondents have tried to make out a difference between the duties assigned to the casual mazdoors and regular mazdoors which, in our opinion, is artificial. Any type of mazdoor, who is physically fit, can undertake any type of duties of labourers after due training. The contention of the respondents that the applicants were appointed as casual mazdoors for 89 days does not find any support from the records placed before us. It was never mentioned to the applicants that they were being appointed for 89 days. In view of the fact that the applicants were appointed as casual mazdoors after going through the prescribed procedure, we fail to understand why these applicants could not be considered for appointment to the post of regular mazdoors. It has also been asserted by the respondents that the casual mazdoors cannot automatically be regularised against the post of regular mazdoors in terms of para 7 of the letter dated 9.9.99 (Annexure R/3 in OA No. 310/99). It is stipulated in para 7 of the said letter that casual labourers will not be adjusted into a permanent category from the above vacancies. They can apply afresh for direct recruitment as per existing instructions. The applicants, however, were not advised to apply afresh for the post of regular mazdoors. Instead, their services were dispensed with and the Employment Exchange was requested by the respondents to re-register their names. It has also been argued by the learned counsel for the respondents that some of these applicants also applied in response to the advertisement and, therefore, it can be presumed that all the applicants were aware of

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the ensuing recruitment for the post of regular mazdoors. It is also a fact that on sponsorship from Employment Exchange if a person is appointed in any type of services (casual or regular) his name stands struck off from the Employment Exchange. In the instant case, the names of the applicants stood struck off from the Employment Exchange and in the meantime, the respondents have sent a fresh requisition to the Employment Exchange before the applicants could be re-registered with their old seniority in the Employment Exchange, resulting in names of junior registrants being sponsored by the Employment Exchange in response to the requisition dated 1.10.99 (Annexure R/4). By joining the respondent-department, all the applicants have thus lost the chance of re-sponsorship against the requisition dated 1.10.99. It is agreed that casual engagements for 80 to 90 days does not confer any right upon the applicant for consideration of their case for regular employment. In the instant case, however, the applicants had been deprived of re-sponsorship by the Employment Exchange for the notified 47 posts of regular mazdoors. Since 8 of the applicants have applied afresh for appointment to the post of regular mazdoors, it cannot be presumed that all the applicants were aware of the recruitment.

7. In the circumstances of the case as also in the interest of justice and fair play, we consider it appropriate that all the applicants as well as the similarly situated persons be considered alongwith freshly sponsored candidates for filling up of 47 posts of regular mazdoors. Thus, the O.A. deserves to be allowed.

8. The O.A. is accordingly allowed with a direction to the respondents to call for applications from the applicants and other similarly situated persons for the post of regular mazdoor and consider all the applicants and other similarly situated persons for appointment to the post of regular mazdoors alongwith the fresh applicants/sponsored candidates for filling up of 47 posts of regular mazdoors, within a period of one month from the date of issue of this order.

9. Parties are left to bear their own costs.

Gopal S.
(GOPAL SINGH)
Adm. Member

AM 25/2/2000
(A.K. MISRA)
Judl. Member