

I/B

CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR

ORIGINAL APPLICATION NO.: 36 of 2002

DATE OF ORDER: 29-10-2002

1. Koju Ram S/o Rupa Ram, aged about 26 years,
2. Koju Ram S/o Shri Kheta Ram, aged about 23 years,
3. Surja Ram S/o Shri Shera Ram, aged about 26 years,
4. Bhanwar Lal S/o Moda Ram, aged about 24 years,
5. Rupa Ram S/o Ramu Ram, aged about 22 years,
6. Birbal S/o Luna Ram, aged about 25 years,
7. Karni Ram S/o Luna Ram, aged about 23 years,
8. Raju Ram S/o Uda Ram, aged about 25 years,
9. Jitendra Singh S/o Hem Singh, aged about 20 years,
10. Narendra Singh S/o Hem Singh, aged 19 years,
11. Magga Ram S/o Jeevan Ram, aged 24 years,
12. Ishwar Ram S/o Keshu Ram, aged 23 years,
13. Roop Singh S/o Mehtab Singh, aged 24 years,
14. Pratap Singh S/o Puran Singh, aged 23 years,
15. Sunil S/o Aidan Ram, aged 24 years,
16. Bhanwar Singh S/o Nandu Singh, aged 24 years,
17. Raju Ram S/o Chunni Ram, aged 24 years,
18. Hukma Ram S/o Kaana Ram, aged 23 years,
19. Shri Kishan S/o Mala Ram, aged 23 years.

...APPLICANTS.

V E R S U S

~~Union of India through:~~

1. ~~Secretary, Ministry of Defence, Raksha Bhawan,~~
New Delhi.
2. Ordinance Directorate, R.M.E. Head quarter,
New Delhi.
3. Head quarter, Western command, Ordinance branch,
Chandi Mandir.
4. 27th Ammunition Company C/o 56 APO.

...RESPONDENTS.

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For the applicants: Mr. Y.K. Sharma, Advocate.
For the respondents: Mr. S.K. Vyas, Advocate.

CORAM:

THE HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER

O R D E R

PER KAUSHIK, JUDICIAL MEMBER:

Koju Ram and 18 others have filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 with the following prayer:-

- "a) That this Hon'ble Tribunal may kindly be pleased to direct the Respondents to consider re-employment of the applicants on the post of Mazdoor on which they worked with them previously with all consequential benefits.
- b) That by appropriate orders or directions, any other reliefs which are found just and proper may also be passed in favour of the applicants.
- c) That the cost of the application may kindly be awarded."

2. The brief facts of the case as narrated in the Original Application are that the applicants worked under respondent no. 4 as casual labour (Mazdoor) on various dates indicated in Annexure A/2. Their services were terminated verbally and without any show cause notice. A representation was submitted against the termination and also a dispute was raised before the Assistant Labour Commissioner (Central) Bikaner which turned out in failure vide order dated 26.02.2001.

3. The further case of the applicants is that the respondents have invited the applications vide Annexure A/1 for appointment to the post of Mazdoor. All the applicants submitted their applications and also have

got a notice issued for engagement them under Section 25 H of ID Act, On 06.11.2002, an interview was conducted but the names of the applicants were not included in the list of candidates called for interview. The Original Application has been filed on number of grounds e.g. as per Section 25 H of ID Act, they were entitled to get employment as per their seniority, their services were terminated without any show cause notice and the action is against the principle of natural justice, they served whole-heartedly in "KARGIL WAR", action of the respondents is totally in violation of provisions of 25 F&G of ID Act, in a similar matter a direction was given to the respondents to re-engage the persons as per their seniority (Annexure A/7).

4. The respondents have filed a detailed reply and have controverted the facts and grounds mentioned in the Original Application. It has been submitted that the applicants have not worked continuously and ^{that too} on the temporary nature of work depending upon the availability of fund and the question of issuing show cause notice did not arise. The terms and conditions under which their services were utilised does not entitle them to for any regular employment. One of the applicant also raised a dispute before Assistant Labour Commissioner (Central) Bikaner and the same was dismissed. This fact has been concealed from this Tribunal and the applicants have not come with clean hands. Further the applicants have forwarded their applications to 25 Ammunition Company C/o 56 APO as per Annexure A/5 and not to respondent no. 4, hence, there is no question of considering their candidature arises. The Section 25 H of ID Act has no application to the present case. Since the very application

were forwarded to the wrong address their names were not included in the list.

5. A rejoinder to the reply has been filed on behalf of the applicants and it has been submitted that Annexure A/5 was wrongly submitted and the applications for recruitment to the post of Mazdoor were sent through UPC on the correct address to the 4th respondent and a copy of UPC is submitted as Annexure A/8.

6. I have heard Mr. Y.K. Sharma, learned counsel for the applicants as well as Mr. S.K. Vyas, learned counsel for the respondents and have carefully perused the records of this case.

7. Mr. Y.K. Sharma, learned counsel for the applicants has reiterated the facts and grounds mentioned in the Original Application and has submitted that their termination from service was ex-facie wrong. They should be re-engaged since the respondents are engaging fresh candidates. On the other hand, the main limb of the arguments on behalf of the respondents is that the case regarding their termination stood finalised by the Assistant Labour Commissioner (Central) Bikaner and the same could not be agitated here. As regards the fresh appointment, the respondents are undertaking to recruit fresh incumbents/candidates on the post of regular Mazdoor and it is not the case of the applicants that fresh casual labours are being appointed it is also not the case of applicants that they are continuing in the service and ought to have been considered for regularisation as per the Casual Labourers' (Grant of Temporary Status and Regularisation) Scheme, 1993. They could only

be considered against the fresh recruitment provided, they have applied in accordance with the notification. However, their case is for re-employment and not to recruitment, thus, no relief as prayed for can be granted to them in the present application. I have given considerable thought to the contentions submitted on behalf of both the parties. It is difficult to comprehend the contentions of the applicants. The pleadings gives rise to haziness and are not clear. There seems to be no relation between the pleadings and the relief sought. As per the pleadings the main thrust of the applicants is on their re-engagement which is termed as re-employment in the relief. The question of re-engagement does not arise since it is not a case of engagement of fresh casual labour, rather it is a case of recruitment against regular posts of Mazdoor. In this view of the matter the relief claimed in this Original Application can not be granted. As regards the consideration of their candidature for recruitment against the regular vacancies for the post of Mazdoor no pleadings or prayer has been made to that effect. However, the applicants shall be free to agitate their grievance, if any, in regard to the consideration of their case against direct recruitment for the post of regular Mazdoor.

8. In view of the foregoing discussions, the Original Application is meritless and the same deserves dismissal and the same is hereby dismissed with no order as to costs

J.K. Kaushik
 (J.K. KAUSHIK)
 Judl. Member

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Kumawat