

17

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR**

Original Application No. 144/2005

Date of decision: 22.02.2006.

Hon'ble Mr. Kuldip Singh, Vice Chairman

1. Sumer Lal Chauhan, S/o Shri Jagdish Chandra Chauhan, aged about 33 years, r/o Vaishnav Colony, Channa Bhakhar, Jodhpur.
2. Laxmi Narain, S/o Shri Dhagla Ram Ji, aged 31 years, C/o Jethu Singh, Indira Colony, Rama Ki Pyau, Mandore Road, Jodhpur.
3. Manohar Singh, S/o Shri Moti Singh Rathore, aged about 32 years, C/o Chatar Singh Parihar, in front of Custom Office, Air Port Road, Jodhpur.
4. Jethu Singh, s/o Sh Ghanshyam Singh, aged about 31 years, r/o Indira Colony, Rama Ki Pyau, Mandore Road, Jodhpur.

All applicants are at present working under the respondent no. 3 on the post of Group D employee.

: Applicants.

Rep. By Mr. R. S. Rathore: Counsel for the applicants.

Versus



1. Union of India, through the Secretary, Ministry of Finance, Department of Revenue, Government of India, North Block, New Delhi.
2. The Commissioner of Custom, Commissionerate, Jaipur New Central Revenue Building, Statue Circle, Jaipur. (Rajasthan)
3. The Assistant Commissioner, Central Excise and Customs Department, Kuchaman House, Air Port Road, Ratanada, Jodhpur.
4. The Administrative Officer, Central Excise & Customs, Department, Kuchaman House, Air Port Road, Ratanada, Jodhpur.

Rep. By Mr. Vinit Mathur : Counsel for the respondents.

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Per Mr. Kuldip Singh, Vice Chairman:

18

The applicants have filed this O.A seeking regularisation of their services on Group D posts from the date of their joining with all consequential benefits. Besides, the applicants have prayed for setting aside the tender notice dated 18.05.2005 (Annex. A/1) and pay them equal pay for equal work.

2. The facts, as alleged by the applicants in brief, are that they had joined the services of the respondent department on daily wages basis in the year 1992 and been continuously and satisfactorily working under the respondents, in the Department of Customs at Jodhpur. It is stated by the applicants that they were detailed as watchman and were asked to perform essential work of the department on gazetted holidays, and thus they have completed more than 240 days in a calendar year. It is further stated that the authorities have taken up their case for regularisation with the Central Board of Customs and Excise, New Delhi. It is alleged that some of their juniors were regularized. It is submitted that the Government of India, Ministry of Finance, Department of Revenue, had issued a circular on 24.09.1999, prescribing that casual workers who were recruited prior to 07.06.88 and who were on service on 08.04.1991, were entitled to regularisation. As the applicants are continuously working since 1992, they should be regularized. Since this has not been done and the respondents have decided to resort to contractual system, and if it is implemented the applicants would be in street and hence the present O.A. This Tribunal vide interim order dated 25.05.2005, stayed the termination of the services of the applicants and the same was continued till date.



19

3. The respondents are contesting the O.A by filing a detailed reply. The respondents have submitted that the applicants have failed to establish that they were continuously working since 1992 and they have not submitted any document in support of the same. It is further submitted that the applicants seek regularisation in the garb of the Scheme laid down by the Department of Personnel and Training, OM dated 10.09.93, and 12.07.94 wherein it has been laid down that full time casual labourers who have rendered 206 days on the date of issue of the said Scheme, were entitled to be conferred temporary status and thereafter regularisation in accordance with the Scheme. It is averred that the scheme is a one time measure and it is not an on going scheme. The applicants case had not fallen within the purview of the scheme and they were never given appointment by the respondents department and they are working on part time basis for two to three hours in a day for doing the work of casual nature and after completing work, no job is being assigned to them for full day. Therefore it is submitted that the applicants' case is not covered under any scheme either for grant of temporary status or for regularisation. It is stated that the so called juniors to the applicants have successfully passed the open competition conducted for selection of Sepoys in the department and the applicants have failed to make out in the open competition.

4. A rejoinder has been filed on behalf of the applicants reiterating the facts and grounds mentioned in the O.A.

5. I have heard the learned counsel appearing for both parties and perused the records carefully. The learned counsel appearing

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for the applicants submitted that the circular received by the respondent's department, covered those casual labourers who have rendered one year service with 206 days working as on 08.04.91 and they should have been engaged prior to 07.06.88 and were in service on 08.04.91

6. In my considered view, this submission of the learned counsel for the applicants has no merit since the cut off date mentioned in the circular i.e. 07.06.88, is based on policy decision of the Government of India and it covers only those casual workers cases who were recruited prior to 07.06.88 and had continued even on 08.04.91, were entitled to be regularized. This cut off date had been prescribed in order to put an end to back door recruitment. Admittedly, the applicants were not in service on or before 07.06.88 and the said circular cannot be invoked by the applicants. Hence this O.A has no merits. Further this Tribunal cannot direct the authorities to regularize the service of the applicants, which would tantamount to encouraging back door entries in Government service. Accordingly it is dismissed. The interim order stands vacated. No costs.



(Kuldip Singh)
Vice Chairman

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