

**Central Administrative Tribunal
Calcutta Bench**

OA No.1232/97

Present : **Hon'ble Mr.N.D. Dayal, Member(A)**
Hon'ble Mr.K.B.S. Rajan, Member(J)

- 1) Nanda Kishore Roy, S/o Late Ram Prosad Roy
- 2) Amiya Kumar Biswas, S/o R.C. Biswas
- 3) Somnath Mukherjee, S/o S.N. Mukherjee
- 4) Uday Krishna Ghosh, S/o H.N. Ghosh
- 5) Jiten Chandra Sen, S/o S.C. Sen
- 6) Ambika Roy, S/o J. Roy
- 7) Haripada Sarkar, S/o Late B. Sarkar
- 8) Nirranjan Geon, S/o Late G.C. Geon
- 9) Sibananda Das, S/o Late B.K. Das
- 10) Kamalesh Lala, S/o R..N. Lala
- 11) Prabir Kumar Das, S/o D.C. Das
- 12) Pranab Sen Sharma, S/o Late H.S. Sharma
- 13) Motilal Ghosh, S/o Late M. Ghosh
- 14) Dulal Chowdhury, S/o Late R. Chowdhury
- 15) Debashis Kr. Mondal, S/o S.C. Mondal
- 16) Goutam Bose, S/o Late R.C. Bose
- 17) Keshab Chandra Dey S/o A.K. Dey
- 18) Wangchuk Bhutia, S/o Chiten Bhutia
- 19) Dhirendra Nath Dutta, S/o A.S. Dutta



- 20) Sachin Roy, S/o J.M. Roy
- 21) Birabrata Das, S/o J.C. Das
- 22) Gopal Basak, S/o N. Basak
- 23) Dilip Kar, S/o R.N. Kar
- 24) Monoranjan Biswas, S/o R. Biswas
- 25) Kanu Sen, S/o Late U.S. Sen
- 26) Kalidas Paul, S/o N.M. Paul
- 27) Amiya Chakraborty, S/o Late B. Chakraborty
- 28) Kalyan Kumar Das, S/o R.C. Das
- 29) Krishna Kanta Biswas, S/o H. Biswas
- 30) Dinabandhu Kangsabanik, S/o Late K. Kangsabanik
- 31) Passang Toshring Lepcha, S/o C.R. Lepcha
- 32) Sribash Chandra Majumdar, S/o Late J.C. Majumdar
- 33) Subrata Kusari, S/o Late S. Kusari
- 34) Pradip Sen, S/o R.C. Sen

-Vs-

- 1) Union of India service through the Secretary, Ministry of Water Resources, Sramshakti Bhawan, New Delhi - 1
- 2) The Chairman, Central Water Commission, Ramkrishnapuram, New Delhi-66
- 3) The Superintending Engineer, Central Water Commission (Barak Brahmaputra Circle) Nabin Nagar, Janapath, Guwahati - 24
- 4) The Executive Engineer, Lower Brahmaputra Dn., Central Water Commission, Hakimpara, Jalpaiguri
- 5) The Chief Engineer, Central Water Commission, Jamir Mansion, Nong, Shillong-14



For the applicants : Mr.S.K. Dutta, Counsel
 For the respondents : Mr.B.Mukherjee, Counsel
 Date of Order : 13-6-82

ORDER

Mr. K.B.S. Rajan, JM

The applicants, 34 in number have filed this O.A. praying for the following:-

- a) Leave be given to the applicants to file this joint application in terms of Rule 4(5)(a) of the Administrative Tribunal (Procedure) Rules, 1987;
- b) To direct the respondents not to disengage the applicants from the casual employment as workcharged seasonal khalasis from Nov, 1997 onwards.
- c) To direct the respondents to extend the benefit of judgement and order dated 19-12-94 passed in OA No.1300/94 in its letter and spirit.
- d) To direct the respondents to absorb and/or regularize the applicants in service in terms of the said order of the Hon'ble Tribunal dated 19-12-94 passed in OA No.1300/94 and in terms of the Scheme prepared by the authorities concerned.
- e) To direct the respondents to produce the entire records of the case before the Hon'ble Tribunal for adjudication of the points at issue.

Of the above, the first one i.e. permission to file the joint M.A. is granted as the relief sought for is one and the same.

2. The applicants have been working on seasonal basis for particular months in a year and from 1988 to 1992, they have put in 914 days in all. Earlier, in 1988 and



1992, similar such work charged seasonal khalasis were absorbed on permanent basis and the applicants now pray for such a treatment to them and for this purpose, they rely on a scheme formulated by the respondents which came into effect from 01-06-1997. (Earlier, by order dated 08-08-1997 the applicants along with some other seasonal casual workers were granted temporary status on the basis of the said scheme.) The salient features of the said scheme are as under:-

A. The Scheme is applicable to the seasonal khalasis in employment on the workcharged establishment of the Central Water Commission on the date of commencement of the scheme and who continue to be so employed and have rendered a minimum of 120 days continuous service or such persons who were engaged any time during the preceding one year and have rendered a minimum of 120 days continuous service in that year.

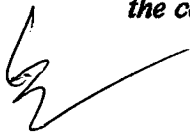
B. Procedure for filling up of posts in workcharged establishment on regular basis:

- (i) Only those vacancies in regular workcharged posts which are filled by direct recruitment in respective offices will be filled up from such workcharged seasonal khalasis with 'Temporary Status' on seniority-cum-fitness basis, maintained under respective circle/field office. For appointment to workcharged establishment on regular basis, the effective date of seniority will be reckoned from the date of the year from which the seasonal khalasis are continuously being engaged for at least 120 days every year, the eligibility year being the initial year wherein the employee*



completes the required number of days of service. The seniority of seasonal khalasis will be maintained separately circle-wise.

- (ii) All eligible seasonal khalasis will be considered for empanelment for posts on workcharged establishment by a duly constituted Screening Committee which will assess the suitability of such employees.*
- (iii) No such employee shall be considered eligible for appointment to posts in workcharged establishment unless he possess educational and other qualifications and pass such test(s) as prescribed in the Recruitment Rules for the post. In the case of illiterate workcharged seasonal khalasis conferred temporary status or those who fail to fulfil the minimum qualifications prescribed for the post, regularization will be considered only against those posts in respect of which literacy or a minimum academic qualification will not be a requisite condition.*
- (iv) In order to be eligible, seasonal khalasi must fulfil the condition of upper age limit as prescribed in the relevant Recruitment Rules. For this purpose he will be allowed age relaxation to the extent of continuous service rendered by him as seasonal khalasi. For determining the date of birth the criteria laid down at Annexure 'A' shall be observed.*
- (v) He should be medically fit for the posts for which he is considered for absorption/regularization. He should be got medically examined at the time of his initial appointment by the competent medical authority.*
- (vi) The character and antecedents of such employees shall be verified from the competent authority at the time of his initial appointment.*



(vii) No recruitment in any circle from open market for regular workcharged staff except for compassionate appointments will be done till eligible seasonal khalasis with the requisite qualifications or available in that circle to fill up the posts in question.

3. The respondents have contested the case. They have made certain preliminary objections such as that the applicants had earlier approached the Principal Bench in OA No. 2331 of 1996 which was disposed of on 18th March, 1997 and the same acts as constructive res-judicata. This objection is to be summarily rejected on the simple ground that the order is anterior to the introduction of the scheme and the applicants base their present claim on the very scheme itself.

4. On merit of the case the respondents only contend that the applicants being seasonal casual workers they have to be necessarily disengaged after the season is over till the next season.

5. Arguments were heard and the case considered. The very scheme itself is to accommodate the seasonal khalasis and all that is required to be seen is whether the conditions stipulated therein are fulfilled for affording regularization to the applicants. Para 10(i) and (ii) of the Scheme, as extracted above, stipulates that workcharged seasonal khalasis with Temporary Status would be considered on seniority cum fitness basis for "empanelment for posts on workcharged establishment by a duly constituted screening Committee which will assess the suitability of such employees." Para 10(iii)



provides that no such employee shall be considered eligible for appointment to posts in workcharged establishment unless he possesses educational and other qualifications and pass such tests as prescribed in the Recruitment Rules for the post. Upper age limit as prescribed in Condition No. 9 would be fulfilled and for this purpose he would be allowed age relaxation to the extent of continuous service rendered by him as seasonal Khalasi.

6. The scheme is specific vide condition No. 10(vii) that "No recruitment in any circle from open market for regular workcharged staff except for compassionate appointment will be done till eligible seasonal khalasis with the requisite qualifications are available in that circle to fill up the post in question."

7. The above scheme thus clearly provides for accommodation of the eligible seasonal khalasis for regularization against direct recruitment posts in Group D. As such, there is no question of the applicants being ignored from being considered under the scheme.

8. In view of the above, the O.A. succeeds. The respondents are directed as under:

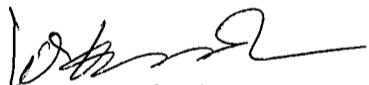
- (a) They shall prepare and maintain the vacancy position of all such group-D posts for which the recruitment would be made from amongst the seasonal khalasis by way of regularization in accordance with the provisions of the Scheme.

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- (b) They shall also maintain a seniority list of all such seasonal khalasis the list being based on the total number of days of work so far performed by such khalasis and such a seniority would be displayed prominently for information of the individuals concerned.
- (c) When vacancies arise to be filled up from the seasonal Khalasis, the same would be considered periodically, say quarterly by considering the seasonal khalasis on the basis of their seniority and regularization be made accordingly by the screening committee as per the Scheme.
- (d) The seniority list should be properly updated on annual basis till all the seasonal khalasis are fully absorbed.

9. Order as contained in (a) and (b) shall be complied with, within a period of three months from the date communication of this order and order under (c) above would commence from the last quarter of this calendar year.

10. Under these circumstances no order as to cost.


Member(J)


Member(A)