

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. NO. 556/2008

Dated this the 18th day of October, 2010

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

- 1 P.I. Abdul Salam S/o Attakoya
Puthiyillam House, Kalpeni, Lakshadweep.
- 2 C.N. Muhammed Yahya Khan S/o P. Atakoya (late)
Cheriyan Nellal, Kalpeni, Lakshadweep.
- 3 M.K. Abdul Kabeer S/o M.K. Kassim Koya
Malmikakada House, Kalpeni, Lakshadweep.
- 4 K.P. Yacoob S/o T. Nallakohya
Kodippalli House, Kalpeni, Lakshadweep.
- 5 C.K. Rafeeqe S/o A.K. Muthukoya
Cheriakunnamkulam House,
PO Kalpeni, Lakshadweep.
- 6 M.K. Haneefa Kohya S/o A.K. Sayed
Mathilakadu Nallai House
PO Kalpeni, Lakshadweep.
- 7 P. Yacoob S/o T.K. Muhammed
Pathada House, PO Kalpeni, Lakshadweep.
- 8 A.K. Muhammed Kohya S/o P.V. Shai Koya
Alika Kada House
P.O. Kalpeni, Lakshadweep.
- 9 A.K. Akbar S/o K.K. Ambukoya
Akkara House, PO Kalpeni, Lakshadweep.

By Advocate Mr. P.K. Muhammad Puzhakkara.

Vs.

- 1 Union of India represented by
the Secretary, Ministry of Shipping
Road Transport & Highways
Department of Shipping, New Delhi
- 2 The Chief Engineer & Administrator
Andaman Lakshadweep Harbour Works
Port Blair, Andaman
- 3 The Deputy Chief engineer
Lakshadweep Harbour Works
Kavaratti
- 4 The Executive Engineer (Civil)
Lakshadweep Harbour Works
Androth
- 5 The Assistant Engineer
Lakshadweep Harbour Works
Kalpeni

Respondents

By Advocate Mr. Sunil Jacob Jose, SCGSC

The Application having been heard on 6.9.2010 the Tribunal delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicants who are engaged as casual labourers are seeking regularisation in service.

- 2 The applicants are engaged as Casual Labourers in the LHW Department of the Ministry of Surface Transport, New Delhi, at Kalpeni from 1.8.1995 onwards. According to them, they have spent

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major part of their life as unskilled labourers and at this age they are unable to secure any alternative job. The respondents collected their bio data for regularisation of their services (A-2). They were duly selected by a Selection Committee constituted for the selection of candidates for engaging as unskilled workers based on interview (A-3). However, while the applicants were working, the respondents invited tenders for engaging contract labourers. Aggrieved, the applicants approached this Tribunal through O.A. 650/2006 which was disposed of directing the respondents to keep the service of the applicants as casual labourers if there is any requirement, they cannot be substituted by any other casual labourers and to consider the applicants for absorption in case the respondents are formulating any scheme as directed by the Apex Court. Since the proposal of appointing the applicants in the post of Khalais is still pending before the 1st respondent without any result, the applicants moved this O.A to issue appropriate orders directing the respondents to consider the appointment of the applicants, for a declaration that they are suitable to be absorbed as Khalasis and to direct the 1st respondent to consider and pass orders appointing the applicants based on A-3. They urged that they are working in the Department as Casual Labloures w.e.f. 1.8.1995, they have attained the age of 35 to 40, therefore getting employment in future is impossible, their bio data was collected for absorbing them, the order of the Tribunal in O.A. 650/06 was not implemented, the 1st respondent is deliberately acting against the appointment of the applicants.

3 The respondents in the reply statement stated that the Ministry of Surface Transport had sanctioned projects for construction of break water at Androth and Kalpeni Islands in 1992 and it was

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decided to engage unskilled labourers on contract basis. The applicants were also engaged as unskilled labourers. They stated that they have never assured the applicants that they will be absorbed in the Department. The applicants are being engaged as and when engagement of casual labourers is required. It is true that they have taken up the matter with the Ministry but no positive direction emerged so far. There are certain restrictions in issue of work order according to CPWD guidelines. However, based on the directions received from the higher authorities this method was discontinued and instead tenders were called for engaging labourers on contract basis. But, in compliance of the orders of the Tribunal in O.A. 650/2006 it was cancelled. They stated that as and when the requirement of unskilled labourers arises, the applicants would be engaged.

4 The applicants filed rejoinder stating that the respondents have flouted the order of the Tribunal in O.A. 650/06 and others are being engaged for executing the work through contractors who respond to the tenders.

5 The respondents filed additional reply statement reiterating the averments in the reply. They further stated that for regular maintenance work like removal and replacing of channel buoys, quotations are called and agency fixed. This work requires boat & drivers and skilled labourers experienced and this job cannot be executed with unskilled labourers. However, wherever practicable and whenever unskilled labourers are required the applicants are being engaged.

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6 The applicants filed additional rejoinder stating that the respondents are still issuing tenders and awarding work to labour contractors(Annexure A-8 to A-10, A-12 and A-13).

7 Heard learned counsel for the parties and perused the records.

8 The applicants have earlier moved the Tribunal through O.A. 650/2006 for absorption and for cancellation of the tender notification. The Tribunal disposed of the OA with the direction to the respondents to retain the services of the applicants as casual labourers if there is work and that they be not substituted by any other casual labourers and if they are formulating any scheme for absorption, the applicants should also be considered in accordance with the scheme. The grievance of the applicants is that the 1st respondent is deliberately and intentionally acting against the interest of applicants by not taking any action for their absorption. They further contended that despite the order of the Tribunal to engage them, contract labourers are engaged by issuing short term quotation notice.

9 The contention of the respondents is that the Department has no requirement of casual labourers for executing the works at the respective construction sites and that they had not assured the applicants that they would be absorbed in the department. They have undertaken that in case of requirement they would definitely consider the cases of the unskilled labourers including the applicants. However, they have reiterated that additional labourers are not engaged to enter wharf/ship and for collection of materials and that efforts would be made to collect/unload materials through the applicants.

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10 The learned counsel for the applicants were directed to produce proof of engagement of casual labourer in other Departments of Lakshadweep Administration showing engagement of casual labourers within 15 days. Persuant to the above direction, the counsel has produced the following documents:

- (i) Circular No.LHW/EE/AND/C-20/10 dated 14.2.1995 of the Executive Engineer, LHW, Androth showing proposal to engage unskilled workers on temporary contract basis for a period of one year in LHW
- (ii) Memorandum No. LHW/EE/AND/C-20/22/9. dated 21.7.1995 of Executive Engineer, LHW showing engagement of unskilled workers on temporary contract basis
- (iii) Letter No.LHW/We/88/1549 dated 6.4.2005 of the Dykl. Chief Engineer, LHW, Kavaratti showing approval for engagement of 11 Unskilled workers on contract basis for a period of six months in the LHW.
- (iv) Letter No. LHW/AE(KLP)/F-114/523 dated 14.9.2005 of AE, LHW Kalpeni requesting extension of the engagement of unskilled workers
- (v) Office order No. 953/2005 dated 22.11.2005 of Administrative Officer, ALHW, Port Blair showing constitution of a Special Selection Committee for selection of contract labourers to the post of Khalasi
- (vi) Office order No. F.NO. 5/10/2007-DMHS(5) dated 2.11.2007 showing offer of appointment of Field Workers in the Farms in the Medical Health Services
- (vii) Office order dated 30.1.2009 showing appointment of WC Beldar under Lakshadweep PWD
- (viii) Office order dated 18th January, 2010 showing Appointment to the post of Multi Skilled Employees (Common Cadre)

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(ix) Office order dated 24th February, 2010 showing appointment to the post of Multi Skilled Employees (Common Cadre)

A perusal of the above orders shows that the respondents were engaging temporary status labourers whose services were regularised.

11 Having heard the parties and after perusal of the pleadings and the documents produced before me, I am of the view that the interest of justice would be met if the OA is disposed of with direction to the 3rd respondent to draw a list of casual labourers including the applicants, engaged by them, in accordance with the number of days they had worked. They shall be engaged as and when work is available on the basis of their position in the list so drawn, in such a way that all the casual labourers would get more or less equal days of engagement per year, notwithstanding the fact that they are over aged.. The list shall be prepared within three months from the date of receipt of copy of this order and published. It is however made clear that no outsider would be engaged for casual works With the above observation, the O.A. is disposed of. No costs.

Dated 18th October, 2010


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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