

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.396/2000

Thursday this the 30th day of November, 2000

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

1. Lekha P.A. aged 32 years,
W/o Jose, Casual Labourers,
Passport Office, Trivandrum
residing at Edakkara Vayalil,
Irapuram PO, Perumbavoor.
2. Mary Jane C.X. aged 32
years W/o Alex Raj, Casual Labourers,
Passport Office, Trivandrum,
residing at Chettilappilly House,
Chullikal, Nazarath, Fort Kochi.
3. Beena C.S. aged 32 years
W/o Shaji, Casual Labourers,
Passport Office, Trivandrum,
residing at Binduvihar
T.C.25/290/1 Thampanur,
Trivandrum. ...Applicants

(By Advocate Mrs.Preethy Ramakrishnan)

V.

1. Union of India, represented by
Secretary to Government,
Ministry of External Affairs,
New Delhi.
2. The Joint Secretary and Chief Passport
Officer, Ministry of External Affairs.,
New Delhi.
3. The Passport Officer,
Regional Passport Office,
Trivandrum.Respondents

(By Advocate Mr. Govindh K Bharathan (rep.))

The application having been heard on 30.11.2000, the
Tribunal on the same day delivered the following:


O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The undisputed facts of the case are as follows:



Applicants 1 to 3 were engaged as casual labourers on 29.5.92, 21.4.92 and 3.8.92 respectively being sponsored by the Employment Exchange under the third respondent. While so the applicants 1&2 along with others filed O.A.795/93 and applicant No.3 filed OA 781/93 along with others claiming wages of Group 'C' employees and regularise on a Group 'C' post on the ground that they were put to work as LDCs. These applications along with O.A.922/92 and 52/93 were disposed of by a common order dated 6.9.93 directing the respondents that the applicants in those cases should be allowed to continue in preference to juniors and freshers, that retrenchment if would become necessary should be made on the basis of length of service in all the Passport Offices put together, that a Seniority List of casual labourers should be prepared and that if they performed continuous duty for a period of one year they should be given one opportunity to qualify in a test for regularisation. Pursuant to the above directions of the Tribunal, the applicants in those cases were given an opportunity to participate in an examination to be held by the Staff Selection Commission. The applicants did not qualify. Their services were terminated in March, 1998 and April, 1998. The applicants thereafter were engaged with effect from 10.2.99, 30.3.99 and 5.7.99 respectively and are continuing. Another Original Application filed by the applicants seeking one more opportunity to appear in a qualifying examination for regularisation as Lower Division Clerks was dismissed. Apprehending that the services of the




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applicants would be terminated with effect from 17.4.2000 and finding that they are not being given the benefit of temporary status in accordance with the scheme promulgated by the Government effective from 1.9.93 the applicants have filed this application for setting aside the proceedings initiated for termination of their services, to declare that they have attained temporary status with effect from 1.9.93 and for a direction not to terminate their services with effect from 17.4.2000.

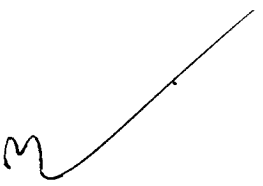
2. The respondents in their reply statement have stated that there is no move to terminate the services of the applicants with effect from 17.4.2000 as alleged in the application. However, the claim of the applicants for grant of temporary status is resisted by the respondents stating that the scheme notified on 10.9.93 being a one time measure to grant temporary status to casual labourers who have performed 240 days of work in the offices observing six days a week and 206 days in the case of offices observing five days a week and as the applicants were on the date of commencement of the scheme engaged for doing Group C work, they are not entitled for grant of temporary status and regularisation under the scheme.

3. I have carefully gone through the pleadings and the materials placed on record and have heard the learned counsel of the applicants and Shri CS Ramanathan appearing on behalf of SCGSC, counsel for the respondents. Now that



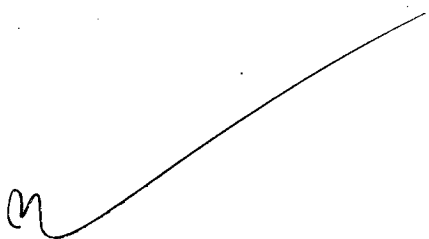
the respondents have stated in the reply statement that there is no move for termination of services of the applicants, the applicants need not have any apprehension that their services would be terminated so long as work is available and persons who have lesser length of service than them are retained.

4. Coming to the question of the eligibility of the applicants for the grant of temporary status, the contention of the respondents is that as the applicants were on the date of commencement of the scheme for grant of temporary status and regularisation working as Group C casual labourers, they are not entitled to temporary status. This contention of the respondents is diagonically opposite to their statement in the same paragraph of the reply statement that "all casual labourers irrespective of nature of work they have done are deemed to be engaged against Group D type of work, which is seasonal/intermittent in nature." Further the scheme for grant of temporary status and regularisation of casual labourers evolved pursuant to the judgment of the Central Administrative Tribunal, Principal Bench in Rajkumar and others Vs. Union of India and others does not make any distinction between casual labourers who were put to work against the duties of Group C posts and those put to do the work allocated to Group 'D' posts. The scheme confers benefit on all casual labourers excluding casual labourers in Railways, Department of Telecommunications and Department of Posts where separate schemes exist. That the applicants



were in service on 1.9.93 and that they had completed 206 days of continuous service in the office of the respondents which is observing five days week is not in dispute. As the respondents themselves have admitted that the applicants were casual labourers and had infact drawn up a seniority list of casual labourers including the applicants (Annexure.A2) I find no justification on the part of the respondents in denying the benefit of temporary status available to the applicants on the basis of the scheme which was brought into force with effect from 1.9.93. Just because the applicants were given the benefit of appearing a qualifying examination conducted by the Staff Selection Commission for regularisation as Group C Lower Division Clerks pursuant to the judgment of the Tribunal in OAs 795/93 and connected cases, their entitlement for grant of temporary status under the Scheme evolved by the Government with effect from 1.9.93 cannot be denied to them.

5. In the result, in the light of what is stated above, the application is allowed. The respondents are directed to consider the grant of temporary status to the applicants with effect from 1.9.93 treating that they are eligible for the benefit under the Scheme and not to terminate their services so long as work is available and persons with lesser length of service than them as casual labourers are retained in service. The order regarding grant of temporary



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status to the applicants shall be issued by the competent authority within a period of two months from the date of receipt of a copy of this order. There is no order as to costs.

Dated the 30th day of November, 2000


A.V. HARIDASAN
VICE CHAIRMAN

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List of annexure referred to:

Annexure.A2: True copy of the Seniority list
of Casual Workers in passport
offices as on 6.12.93.

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