

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A Nos.284, 682, 697, 799 of 2010 and
100, 148, 169, 390 and 400 of 2011

Tuesday, this the 22nd day of November, 2011.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

O.A.No.284/2010

K.Sulaiman, S/o Abdullah.T.K.,
Working as Casual Labour (Temporary Status),
O/o the Assistant Engineer,
Lakshadweep Public Works Department,
U.T of Lakshadweep, Kadamath

Applicant

(By Advocate Mr N Unnikrishnan)

v.

1. Union of India rep. by the Secretary to Government of India,
Ministry of Personnel, P.G & Pension,
Department of Personnel & Training,
New Delhi-110 001.
2. The Administrator, U.T. Of Lakshadweep,
Kavaratti.
3. The Superintending Engineer,
Lakshadweep Public Works Department,
U.T of Lakshadweep, Kavaratti.
4. The Assistant Engineer, Lakshadweep Public Works
Department, U.T of Lakshadweep,
Kadamath.
5. Shri Sayed Mohammed, M.I.W.C.Belder,
Lakshadweep Public Works Department,
Kalpeni.

- Respondents

(By Advocate Mr A.D.Raveendran Prasad, ACGSC for R.1)

(By Advocate Mr S Radhakrishnan for R. 2 to 4)

1. B.C. Andar, S/o K Kader, working as Casual Labourer, (Temporary Status), O/O. the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.
2. B.C. Kunhikoya S/o Khader Baithada, aged 40 years, working as Casual Labourer (Temporary Status), O/O. the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.
3. P.V. Adima, S/o Syed, P.P., aged 54 years, working as Casual Labourer (Temporary Status), O/o. the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.
4. Essa, A.P. S/o Mohammed Arapalli, aged 44 years, working as Casual Labourer (Temporary Status), O/o. the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.
5. K.P. Abdulkhader S/o Kottiyapura Andar, aged 44 years, working as Casual Labourer (Temporary Status), O/o. the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.
6. A. Pookunhi S/o Kidave Ballyachada, aged 46 years, working as Casual Labourer (Temporary Status), O/o the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.
7. N.C. Abdul Hameed S/o Maida Manmmel, aged 49 years, working as Casual Labourer (Temporary Status), O/O. the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.
8. V.C. Ahammed S/o Syed, aged 49 years, working as Casual Labourer (Temporary Status), O/o. the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.
9. P. Kidave, S/o Saban Mullechetta, aged 43 years, working as Casual Labourer (Temporary Status) O/O the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.
10. P.C. Khalid S/o Adima, aged 48 years, working as Casual Labourer (Temporary Status), O/o. the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.
11. T.K. Kasmi S/O Ahammed Kulappunakkalchetta, aged 54 years, working as Casual Labourer (Temporary Status), O/o the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.

12. K.C. Ibrahim S/o Ibrahim Karichichetta, aged 49 years, working as Casual Labourer(Temporary Status), O/o. the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.
13. P.K. Siraj S/o Mohammed C.H. aged 51 years, working as Casual Labourer(Temporary Status) , O/o the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Chethalath Island.
14. K.C. Nallakoya S/o Aboosala, aged 44 years, working as Casual Labourer(Temporary Status) , O/O. the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.
15. A.Adima,S/o Aboosala, A.C., aged 47 years, working as Casual Labourer(Temporary Status) , O/O. the Agricultural Officer, Agriculture Department, Union Territory of Lakshadweep, Amini Island.

(By Advocate Mr N Unnikrishnan)

v.

1. Union of India, Rep by the Secretary to the Government of India, Ministry of Personnel and Public Grievances, Department of Personnel and Training, New Delhi 110 001..
2. The Administrator, Union Territory of Lakshadweep, Kavaratti.
3. The Director(Services)Administration of U.T. of Lakshadweep Secretariat, Kavaratti.
4. The Secretary (Administration), U.T. of Lakshadweep, Secretariat, Kavaratti.
5. The Director of Agriculture, U T of Lakshadweep, Kavaratti.
6. Shri A. Pookunni, w.e. Beldar, Lakshadweep Public Work Department U.T. of Lakshadweep, Amini.
7. Shri Sayed Buhari,S. W.C. Beldar, Lakshadweep Public Works Department, U.T. of Lakshadweep, Amini.
8. Shri Sayed Ali, B, W.C. Beldar, Lakshadweep Public Work Department, U.T. of Lakshadweep, Kavarati.
9. Shri Kunhimon, W.C. Baldar, Lakshadweep Public Works Department, U.T. of Lakshadweep, Beypore, Kozhikode.
10. Shri Aminal Lambage, W.C. Beldar, Lakshadweep Public Works Department, U.T. of Lakshadweep,

Minicoy.

11. Shri kunhiseedhikoya P.K. w.e. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Androth.
12. Shri Abdulsala A, W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Androth.
13. Shri Mohammed S.P. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Androth.
14. Shri Ismail K.C. W.C. Beldar, Lakshwadweep Public Works Department, D.T. of Lakshwadweep, Amini.
15. Shri Noorudhin M.K. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Androth.
16. Shri Abdhul Nazar B, W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kavarati.
17. Shri Essa K, W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Amini.
18. Shri Yusuf,P, W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Amini.
19. Shri Sainudheen B.C, W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Beypoor, Kozhikode.
20. Shri Abdhul Khader V.P., W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kadamath.
21. Shri Attakoya K.K. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kadamath.
22. Shri Hamzakoya K.I. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Chetlat.
23. Shri Siraj M.M. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Chetlat.
24. Shri Sainul Abid C.P. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Chetlat.
25. Shri Ahamed K.P., W.C. Beldar, L.P.W.D., U.T. of Lakshwadweep, Chetlat.
26. Shri Mohamed Iqbal E.P., W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Chetlat.
27. Shri Pookunhi A.C., W.C. Beldar, Lakshwadweep Public

Works Department, U.T. of Lakshwadweep, Kavarati.

28. Shri Kunhikoya A.C. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kadamath.
29. Shri Sayed Mohammed T.P. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kadamath.
30. Shri Azher T.P. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan.
31. Shri Ahammed A. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Amini.
33. Shri Basheer T. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan.
34. Shri Fathima Faige W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Minikoy.
35. Shri Ahammed B. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Amini.
36. Shri Kunhikoya K.P. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Androth.
37. Shri Mohamed M.K. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep Agathi.
38. Shri C.H. Ameer Ali W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan.
39. Shri Aboosala P.C. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan.
40. Shri Andher N. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep Amini.
41. Shri Abdulrahiman C.P. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kadamath.
42. Shri Atherkoya P.S. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan
43. Shri Hamza T.P., W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan
44. Shri Koya K W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan
45. Shri M. Hameed, W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan.
46. Shri Kunhikidave P.K. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan.

47. Shri Fathahudheen P.P.T. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Andhroth.
48. Shri Moosa P.V. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan.
49. Shri Nalar M.P., W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kavarati.
50. Shri Kidave T, W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Minicoy.
51. Shri Musthafa S.P, W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan.
52. Shri Yousuf K, W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Amini Department, U.T. of Lakshwadweep, Agathi
54. Shri Mohammed P.K. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan.
55. Shri Bhasha M.P. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan.
56. Shri Alimohammed S.P., W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan.
57. Shri Muthukoya S. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan.
58. Shri Kunhimon K. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kadamath.
59. Shri Cheiryakoya L, W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Andhroth.
60. Shri Kunhi Beesi W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Amini.
61. Shri Kunhi P.K. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kadamath.
62. Shri Moosa A, W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kavarati.
63. Shri Mohammed Jaleel M.K. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Andhroth.
64. Shri Rukhiya Kurimuge W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Minicoy.
65. Shri Ahamed P.I, W.C. aeldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Amini.
66. Shri Yousuf P.N. W.C. Beldar, Lakshwadweep Public Works Department,

U.T. of Lakshwadweep, Amini.

67. Shri Cheriyakoya I, W.C. Beldar, Lakshwadweep Public works Department, U.T. of Lakshwadweep, Kalpeni.

68. Shri Kasmi Koya M.P., W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kavarati.

69. Shri Azadulla T.P. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kadamath.

70. Shri. Ahammed Bathsha M.C. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kiltan.

71. Shri Khalid T.K. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kavarati.

72. Shri Siraj T. W.C. Beldar; Lakshwaqweep Public Works Department, U.T. of Lakshwadweep, Kadamath.

73. Shri Nallakoya V.P. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Amdroth.

74. Shri Muthukoya KK, W.C.Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kalpeni.

75. Shri Seethikoya K.K. W.C.Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kalpeni.

76. Shri Nazar K.O. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kalpeni.

77. Shri Abdulla B. W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kadamath.

78. Shri Sayed Mohammed M., W.C. Beldar, Lakshwadweep Public Works Department, U.T. of Lakshwadweep, Kalpeni.

79. Shri Mohiyudheen K.I, S/o Basheer Ahammed
C-9, Lakshadweep residential Complex Near IOC,
Panampiil Nagar, Ernakulam.

80. Shri Anvar Hussain Akoya, S/o C.H.P.Attakoya aged 28 eyars,
Madapura House, Amini Island, Lakshadweep.

81. Smt Sabeeha H.B., W/o Rafeek K,
Hassanbebigothi House, Sadivalu Village,
Minicoy Island, Lakshadweep.

82. Smt Asifa G.F., W/o Kamar, Geburige,
Minicoy, Lakshadweep. Respondents

(By Advocate Mr MVS Nampoothiri, ACGSC for R.1)

(By Advocate Mr S Radhakrishnan for R.2 to 5)

(By Advocate Mr R Ramadas for R.41)

(By Advocate Mr E.C.Bineesh for R.11 to 13, 15, 22, 24 to 26, 36, 47, 59, 63 and 73)

(By Advocate Mr Anand S.A. For R.79 to 82)

O.A.No.697/2010

1. U.P. Abdul Khadar, S/o Muthukoya,
Now working as Temporary Status Casual Labourer,
District Panchayat Office, Kavaratti.
2. Palliyat Koya; S/o Koyamma Koya,
Now working as temporary Status Casual Labourer,
Agricultural Unit, Androth.
3. T.P. Mohammed Kasim, S/o Abdul Khadar,
Now working as temporary Status Casual Labourer,
Agricultural Unit, Androth.
4. U.Khalid Umbiyoda, S/o Mohammed T,
Now working as temporary Status Casual Labourer,
Agricultural Unit, Agatti. - Applicants

(By Advocate Mr M.P.Krishnan Nair)

v,

1. Union of India, rep. By Secretary,
Ministry of Agriculture, Government of India,
New Delhi.
2. The Director, Department of Personnel & Training,
Ministry of Personnel, P.G & Pension,
Government of India, New Delhi.
3. The Administrator, U.T. Of Lakshadweep,
Kavaratti.
4. The Director, Agriculture,
Department of Agriculture,
U.T. Of Lakshadweep, Kavaratti.
5. Naushad Ghan M.M., S/o Miqdad.P.K.,
Meelad Manzil, Androt Island,
U.T. Of Lakshadweep. - Respondents

(By Advocate Mr Millu Dandapan, ACGSC for R.1&2)

(By Advocate Mr S Radhakrishnan, R.3&4)

(By Advocate Mr V.K.Sathyanathan for R.5)

O.A.No.799/2010

1. Mohammed K, S/o Syed Karakkunnel,
Now working as Temporary Status Casual Labourer,
Agriculture Unit, Kiltan.
2. Khalid.R.PO., S/o Koyamma Poodampapada,
Now working as Temporary Status Casual Labourer,
Agricultural Unit, Minicoy. Applicants

(By Advocate Mr M.P.Krishnan Nair)

v.

1. Union of India, rep. By Secretary,
Ministry of Agriculture, Government of India,
New Delhi.
2. The Director, Department of Personnel & Training,
Ministry of Personnel, P.G & Pension,
Government of India, New Delhi.
3. The Administrator, U.T. Of Lakshadweep,
Kavaratti.
4. The Director, Agriculture,
Department of Agriculture,
U.T. Of Lakshadweep, Kavaratti.

(By Advocate Mr Millu Dandapani for R.1&2)

(By Advocate Mr S Radhakrishnan for R.3&4)

O.A.No.100/2011

1. C.M:mohammed, S/o-Seraj T.P.,
Working as Casual Labourer(Temporary Status),
O/o the Assistant Engineer, Lakshadweep Public
Works Department, U.T. Of Lakshadweep,
Kadamath.
2. K.S.Attal, S/o Adima P,
Working as Casual Labourer(Temporary Status),
O/o the Assistant Engineer, Lakshadweep Public
Works Department, U.T. Of Lakshadweep,
Kadamath.
3. Abdul Muthalif, S/o Adeyatti Biriyommada,
Working as Casual Labourer(Temporary Status),
O/o the Assistant Engineer, Lakshadweep Public
Works Department, U.T. Of Lakshadweep,
Kadamath. Applicants

(By Advocate Mr N Unnikrishnan)

v.

1. Union of India rep. by the Secretary to Government of India,
Ministry of Personnel, P.G & Pension,
Department of Personnel & Training,
New Delhi-110 001.

2. The Administrator, U.T. Of Lakshadweep,
Kavaratti.
3. The Superintending Engineer,
Lakshadweep Public Works Department,
U.T of Lakshadweep, Kavaratti-682 555.
4. The Assistant Engineer, Lakshadweep Public Works
Department, U.T of Lakshadweep,
Kadamath-682 558. - Respondents

(By Advocate Mr S Jamal, ACGSC for R.1)

(By Advocate Mr S Radhakrishnan for R. 2 to 4)

O.A.No.148/2011

1. Basheer.P.P., S/o B.K.Koyamma, working as
Temporary Status Labour,
Animal Husbandry Deptt. Kavaratti.
2. P.Kunhikoya, S/o late Pandari Mohammed, working as
Temporary Status Labour,
Animal Husbandry Deptt. Kavaratti.
3. K.Kunhikoya, S/o late Cherikulam Mohammed, working as
Temporary Status Labour,
Animal Husbandry Deptt. Kavaratti.
4. K.P.Nallakoya, S/o late Kumbidam Mohammed, working as
Temporary Status Labour,
Animal Husbandry Deptt. Kavaratti-682 555.
5. A.P.Jaleel, S/o Thottathakara Hamza, working as
Temporary Status Labour,
Animal Husbandry Deptt. Kavaratti-682 555.
6. T.P.Sayed Ali, S/o late Thithi Kuttiyapura Mohammed working as
Temporary Status Labour,
Animal Husbandry Deptt. Kavaratti-682 555.
7. M.P.Mohammed Haneefa, S/o Chettipura Hamzath, working as
Temporary Status Labour,
Animal Husbandry Deptt. Kavaratti-682 555.
8. V.P.Yakoob, S/o Thottathiya Pura Hamzath, working as
Temporary Status Labour,
Animal Husbandry Deptt. Kavaratti-682 555.
9. A.K.Ahamed, S/o Kunnam Thangakoya, working as
Temporary Status Labour,
Animal Husbandry Deptt. Kavaratti-682 555.
10. K.K.Fazil, S/o Alukadiya Pada Kassi, working as
Temporary Status Labour,

Animal Husbandry Deptt. Kavaratti-682 555.

11. P Khald=id, S/o late Kunhalil Chetta Sayed Buhari, working as Temporary Status Labour, Animal Husbandry Deptt. Kavaratti-682 555.
12. C.P.Sayed Buhari, S/o late Koliyapura Kidave, working as Temporary Status Labour, Animal Husbandry Deptt. Kavaratti-682 555.
13. B.Abbas, S/o Pokrichiya Pura Kidave, working as Temporary Status Labour, Animal Husbandry Deptt. Kavaratti-682 555.
14. T.P.Ahamed, S/o late Kunnampura Koyamma, working as Tempcrary Status Labour, Animal Husbandry Deptt. Kavaratti-682 555.
15. M.Mohammed Ali, S/o Pokkrachiyapura Muthukoya, working as Temporary Status Labour, Animal Husbandry Deptt. Kavaratti-682 555.
16. K.P.Kuthukoya, S/o B.C.Haamid, working as Temporary Status Labour, Animal Husbandry Deptt. Kavaratti-682 555. - Applicants

(By Advocate Mr M.P.Krishnan Nair)

v.

1. Union of India re. by Administrator, U.T. Of Lakshadweep, Kavaratti-682 555.
2. The Director, Department of Personnel & Training, Ministry of Personnel, P.G & Pension, Government of India, New Delhi-110 001.
3. The Director, Animal Husbandry, Department of Animal Husbandry, U.T of Lakshadweep, Kavaratti-682 555. - Respondents

(By Advocate Mr Millu Dandapani, ACGSC for R.2)

(By Advocate Mr S Radhakrishnan for R.1 & 3)

O.A.No.169/2011

1. N.C.Sayed, S/o Myeda, working as Temporary Status Labour, Animal Husbandry Deptt. Amini.
2. A.C.Abdulla, S/o Mullichetta Yoosef, working as Temporary Status Labour,

Animal Husbandry Deptt. Amini.

3. T.Kunhimon, S/o P Hamsa, working as Temporary Status Labour, Animal Husbandry Deptt. Amini.
4. K.K.Ummer, S/o K.C.Aboosala, working as Temporary Status Labour, Animal Husbandry Deptt. Amini.
5. M.Abdul Kader Manadam, S/o K.C.Mohammed, working as Temporary Status Labour, Animal Husbandry Deptt. Amini.
6. U.Hameed, S/o A.C.Mohammed, working as Temporary Status Labour, Animal Husbandry Deptt. Amini.
7. K.P.Ahammed, S/o A.K.Ali Mohammed, working as Temporary Status Labour, Animal Husbandry Deptt. Kadamath.
8. M.C.Alhamath, S/o Myeda, working as Temporary Status Labour, Animal Husbandry Deptt. Kadamath. - Applicants

(By Advocate Mr M.P.Krishnan Nair)

v.

1. Union of India rep. By Administrator, U.T of Lakshadweep, Kavaratti-682 555.
2. The Director, Department of Personnel & Training, Ministry of Personnel, P.G. & Pension, Government of India, New Delhi-110 001.
3. The Director, Animal Husbandry Department of Animal Husbandry, U.T. Of Lakshadweep, Kavaratti-682 555. - Respondents

(By Advocate Mr S Radhakrishnan for R.1 & 3)

O.A.No.390/2011

1. Sayed Koya, S/o Mohammed Hajji, Working as Temporary Status Labourer, Animal Husbandry Deptt, Kadamath-682 556.
2. C.P.Mohammed Haneefa, S/o Bammad, Working as Temporary Status Labourer, Animal Husbandry Deptt, Kadamath.

Working as Temporary Status Labourer,
Animal Husbandry Deptt, Kadamath.

4. P.V.K.Mohammed, S/o Majeed,
Working as Temporary Status Labourer,
Animal Husbandry Deptt, Kadamath.
5. B.Mohammed Kasim (Velutheth), S/o Sayed Mohammed,
Working as Temporary Status Labourer,
Animal Husbandry Deptt, Kadamath.
6. S.M.Pookoya, S/o Sahikoya,
Working as Temporary Status Labourer,
Animal Husbandry Deptt, Kadamath.
7. L.Sayed Mohammed, S/o P Kidave,
Working as Temporary Status Labourer,
Animal Husbandry Deptt, Kadamath. - Applicants

(By Advocate Mr M.P.Krishnan Nair)

v.

1. Union of India rep. By
Administrator, U.T of Lakshadweep,
Kavaratti-682 555.
2. The Director, Department of Personnel & Training,
Ministry of Personnel, P.G. & Pension,
Government of India, New Delhi-110 001.
3. The Director, Animal Husbandry
Department of Animal Husbandry,
U.T. Of Lakshadweep, Kavaratti-682 555. - Respondents

(By Advocate Mr S Radhakrishnan for R.1&3)

O.A.No.400/2011

1. K.Jaleel, S/o Kasim Ummanakudi,
working as Man Mazdoor, L.P.W.D., Department,
U.T of Lakshadweep, Kadamath Island-682 556.
2. K.P.Kunhikoya, S/o Syed Mohammed, working as
Man Mazdoor, L.P.W.D Department, U.T. Of
Lakshadweep, Kadamath Island-682 556.
3. M.K.Ahsraj, S/o Muthukunhi.P.P., working as
Mason Grade-II, L.P.W.D., Department,
U.T of Lakshadweep, Kadamath Island-682 556.
4. K.M.Basheer, S/o K.C.Koyakidave, working as
Driver Gr.II, L.P.W.D., Department,
U.T of Lakshadweep, Kadamath Island-682 556.

5. P.P.Siddique, S/o Aboosala Kandilam, working as Man Mazdoor, L.P.W.D., Department, U.T of Lakshadweeپ, Kadamath Island-682 556.
6. K.S.Hassainar, S/o Cheriyakoya.K.C., working as Man Mazdoor, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
7. U.C.Aboobacker, S/o Beeran Kunhi, working as Man Mazdoor, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
8. T.A.Mohammed S/o Koyamma Therakkal, working as Man Mazdoor, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
9. A.V.Mohammed Haneefa, S/o Syed Mohammed Avvechetta, Working as Man Mazdoor, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
10. P.C.Kunhimon, S/o Yousuf Koormel, working as Man Mazdoor, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
11. T.P.Yousaf, S/o Beefathummakudy Aboobakcer, working as Mason Gr.II, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
12. P.C.Yoosuff, S/o Kunnalachetta Hamza, working as Man Mazdoor, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
13. P.C.Talhat, S/o Kunhi Ahammed, working as Man Mazdoor, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
14. V.I.Mohammed Shaffi, S/o Pookunhi, Carpenter Gr.III, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
15. K.Koyamma, S/o Ahammed Koormel, working as Man Mazdoor, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
16. P.S.Anaskoya, S/o Kalid, working as Man Mazdoor, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
17. C.M.Ashraf, S/o T.P.Ishack, working as Mason Grade-II, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
18. A.P.Sharafudeen, S/o Mohammed Haji, working as NMR Mason II Class, Water Supply Sub Division, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.

19. A.Saidali, S/o Abdul Rahman, working as NMR Mason III Class, Water Supply Sub Division, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
20. M.P.Badar, S/o Abdulrahman, NMR Man Mazdoor, Water Supply Sub Division, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
21. K.Abdulla, S/o Sayed, NMR Man Mazdoor, Water Supply Sub Division, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.
22. C.P.Kunhiseethi, S/o Sayed Mohammed, NMR Mason II Class, Water Supply Sub Division, L.P.W.D., Department, U.T of Lakshadweep, Kadamath Island-682 556.Applicants

(By Advocate Mr N Unnikrishnan)

v.

1. Union of India rep. by the Secretary to Government of India, Ministry of Personnel & Public Grievances, Department of Personnel & Training, New Delhi-110 001.
2. The Administrator, Union Territory of Lakshadweep, Kavaratti-682 555.
3. The Superintending Engineer, Lakshadweep Public Works Department, U.T of Lakshadweep, Kavaratti-682 555.
4. The Assistant Engineer, Lakshadweep Public Works Department, Water supply Sub Division, U.T of Lakshadweep, Kiltan-682 558.Respondents

(By Advocate Mr. A.D.Raveendran Prasad, ACGSC for R.1)

(By Advocate Mr S Radhakrishnan for R. 2 to 4)

This applications having been finally heard on 12.10.2011, the Tribunal on 22.11.2011 delivered the following:

ORDER

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

1. The spinal issue

1.1 The seminal issue involved in these batch matters is whether the applicants who had been afforded temporary status as early as in 1993, in terms of a scheme called the "Casual Labourers (Temporary Status and Regularisation) Scheme " of Government of India, 1993, are entitled to regularization as Group D and if so, from which date.

2. Factual Matrix

2.1 In these O.As, the applicants are engaged as temporary status holders in the following departments of the Respondent Lakshadweep Administration:-

Sl No.	Department	O.A. Nos.	Applicants Represented by
1	Agriculture	682/10	Shri N. Unnikrishnan
		697/2010	Shri M.P. Krishnan Nair
		799/10	Shri M.P. Krishnan Nair
2	Animal Husbandry	148/11, 390/11, 169/11,	Shri M.P. Krishnan Nair
3	Public Works Department/Water Supply	100/11, 284/11, 400/11	Shri N. Unnikrishnan

2.2 In so far as the applicants in OA 682 of 2010, they are all working in the Agricultural Department and they have impleaded Private Respondents working as Beldar on the ground that such private respondents are junior in the common seniority list of temporary status employees. Details of all the applicants with their seniority in the combined seniority have not been given in all the cases. However, to the extent these could be located, a tabular column has been prepared and the same is as hereunder. These are also subject to verification. Such minute details are not that much essential as the factual aspect has not been in dispute and the main issue is the legal issue relating to regularization.

Sl	OA No.	Name & Working as	D.O.B.	Qualification	Department	Dt of Entry	Seniority position
1	697/20 10	U.P. Abdul Khadar	02/04/65	V Standard	AD	02/26/81	44 in AD
2		Palliyar Koya	04/03/65	V Standard	AD	01/01/81	631
3		T.P. Mohammed Kasim	05/15/67	IV Pass	AD	12/10/81	70 in AD.
4		U. Khalid	12/16/64	VII Standard	AD	10/28/86	1416
5	148/20 11	Basheer P.P.			AD	12/01/87	1592
6		P. Kunhikoya		IV standard	AH	07/25/84	1212
7		K. Kunhikoya	07/01/53	Nil	AH	08/01/81	699
8		K.P. Nallakoya	02/13/63	Upto IV Std	AH	07/13/81	730
9		A.P. Jaleel	09/04/61	V standard	AH	04/01/82	829
10		T.P. Sayed					
11		M.P. Mohammed Haneefa					
12		V. Yakoob					
13		A.K. Ahmed		SSLC Failed	AH	04/21/86	1365
14		K.K. Fazil	09/25/59	Upto VII	AH	04/24/85	1291
15		T. Khalid					
16		C.P. Sayed Buhari					
17		B. Abbas		VI Standard	AH	11/21/86	1424
18		T.P. Ahamed					
19		M. Mohammed					
20		K.P. Muthukoya					
21	799/20 10	Mohammed K	05/03/60	V Standard	AD	04/01/81	670
22		Khalid R.P.					
23	169/20 11	N.C. Sayed			£'		
24		A.C. Abdulla					
25		T. Kunhimon					
26		K.K. Ummer					
27		M. Abdul Kader Manadam					
28	169/20 11	U. Hameed	05-05-60	VIII std	AH	03/16/82	825
29		K.P. Ahammed					
30		M.C. Alhamath					

Sl	OA No.	Name & Working as	D.O.B.	Qualification	Department	Dt of Entry	Seniority position
31	390/20 11	Sayed Koya			£'		
32		C.P. Mohammed Haneefa	05/02/58	V Standard	AHD	04/25/80	564
33		B.K. Pookunji Koya					
34		P.V.K. Mohammed					
35		B. Mohammed Kasim					
36		S.M. Pookoya					
37		L. Sayed Mohammed					
38	100/20 11	C.M. Mohammed			\$		
39		K.S. Attal					
40		Abdul Muthalif					
41	284/20 10	K. Sulaiman	04/03/67		PWD	04/04/84	
42	400/20 11	K. Jaleel	04/05/67	I Standard	PWD	09/22/84	1230
43		K.P. Kunhikoya	04/02/65	IX Standard	PWD	01/18/86	1341
44		M.K. Ashraf			PWD	02/17/86	1354
45		K.M. Basheer	04/05/69	IX Standard	PWD	09/27/86	1403
46		P.P. Siddique			PWD	02/09/86	1351
47		K.S. Hassainar			PWD	01/24/86	1346
48		U.C. Aboobacker			PWD	03/26/88	1655
49		T.A. Mohammed	01/23/65	IV Standard	PWD	02/14/87	1441
50		A.C. Mohammed Haneefa			PWD	03/26/88	1657
51		P.C. Kunhimon			PWD	09/27/86	
52		T.P. Yousaf			PWD	04/18/89	
53		P.C. Yoosuf	04/12/66	IV Standard	PWD	05/09/87	1492
54		P.C. Talhat	06/02/69	VI Standard	PWD	09/29/86	1407
55		V.I. Mohammed Saffi					
56		K. Koyamma					
57		P.S. Anaskoya					
58		C.M. Ashraf					
59		A.P. Sharafudeen					
60		A. Saidali					
61		M.P. Badar					
62		K. Abdulla					
63		C.P. Kunhiseethi			A		
64	682/20 10	B.C. Andar	04/21/62	VII Standard	AD	05/12/82	836

SI	OA No.	Name & Working as	D.O.B.	Qualification	Department	Dt of Entry	Seniority position
65		B.C. Kunhikoya	04/30/71	IV Passed	ADun it	05/15/87	1497
66		P.V. Adima	06/27/56	---	AD	01/04/85	1269
67		Essa A.P.	04/15/67	III Standard	AD	12/04/80	624
68		K.P. Abdulkhader	10/15/66	VII Standard	AD	01/01/86	1338
69		A. Pookunhi	05/02/64	V Standard	AD	02/08/83	955
70		N.C. Abdul Hameed		V Standard	AD	03/09/81	
71		V.C. Ahammed	07/20/62	V Standard	AD	03/09/81	660
72		P. Kidave	04/07/67	V Standard	AD	03/09/81	661
73		P.C. Khalid	04/01/65	II Standard	AD	05/12/82	838
74		T.K. Kasmi	---	--	AD	01/18/80	534
75		K.C. Ibrahim		V Standard	AD	03/04/87	1448
76		P.K. Siraj	05/11/37		PWD	03/21/81	667
77		K.C. Nallakoya	06/19/62	III Standard	AD	06/11/84	1207
78		A. Adima	02/02/64	VI Standard	AD	07/12/82	844
79							

(@ : Agriculture; £: Animal Husbandry; \$ LPWD %: LPWD/Water Supply)

2.3 All the applicants have been holding temporary status in accordance with the scheme framed by the DOPT in 1993. The terms of the scheme inter alia include that of the future vacancies in Group D posts two-third would be filled up on the basis of seniority from among the Temporary status holders and one-third by way of Direct Recruitment. In fact, as many as 1392 casual labourers were granted temporary status in 1993 itself in accordance with the aforesaid scheme and services of more than 630 persons have been regularized against the aforesaid two-third vacancies as and when vacancies against that slot arose. While so, the VI Pay Commission Recommendations were accepted by the Government and the recommendations include revamping the entire culture of

Group D in the Central Government Department. The recommendations specified that there should, henceforth be no Group D posts and the existing Group D posts should be converted as Group C posts with minimum qualifications of Matriculation or equivalent and the functional responsibilities would embrace all and sundry called multi skilled works. In the wake of the acceptance of the recommendations of the Pay Commission, the nodal Ministry published a model recruitment Rules for the erstwhile Group D posts and the same adopted by the Lakshadweep Administration by publishing the gazette notification for various posts. The qualification requirement, the method of recruitment etc., as contained in the Recruitment Rules are as under:-

"SCHEDULE-I

	Name of Post	MultiSkilled Employees (Common Cadre). Note: The incumbents working against the post Peon/Nadapal/Packer/Peon-cum-Watchman/Weigher/Messenger/Peon-cum-Bill Distributor/Chowkidar-cum-Bill Distributor Mannual Assistant/Peon-cum-Chowkidar/House Keeper/Watchman/Watchman-cum-Safaiwala/Safaiwala/Farash/Kavalgar/Gardener/Chowkidar/Chowkidar-cum-Night Watchman/Attender/Attendant/Process Server/Daftry/Bearer/Sevak are interchangeable.
1	No. of Posts	383(2009) Subject to variation dependent on workload
2	Classification	General Civil Service Group'C' (Non-Gazetted, Non-Ministerial).
3	Pay Band/Scale & Grade Pay	5200-20200 (PBI) Grade Pay Rs.1800/-
4	Whether selection post of non-selection post	Not applicable
5	Whether benefit of added years of service admissible under Rule 30 of the CCS (Pension) Rules, 1972.	Not applicable

1	Name of Post	<i>MultiSkilled Employees (Common Cadre).</i> Note: The incumbents working against the post Peon/Nadapal/Packer/Peon-cum-Watchman/Weigher/Messenger/Peon-cum-Bill Distributor/Chowkidar-cum-Bill Distributor Mannual Assistant/Peon-cum-Chowkidar/House Keeper/Watchman/Watchman-cum-Safai wala/Safai wala/Farash/Kavalgar/Gardener/Chowkidar/Chowkidar-cum-Night Watchman/Attender/Attendant/Process Server/Dastry/Bearer/Sevak are interchangeable.
7	Age limit for direct recruits	18 and 25 years. Upper age limit relaxable to Govt. Servants/Ex-Servicemen/Physically Handicapped/Compassionate appointment etc and other special categories of persons in accordance with instructions or orders issued by Central Govt. from time to time. Note: The crucial date for determining the age limit mentioned in Col.7 (recruitment through District Employment Exchange) will in each case, be the last date upto which the Employment Exchange is asked to submit the names.
8	Educational and other qualifications prescribed for the direct recruitments	Matriculation or equivalent Note: The present incumbents working in Group'D' post as mentioned at Col.1 of the Schedule are exempted from educational qualification and age.
9	Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees	Not applicable.
10	Period of probation, if any	Two years
11	Method of recruitment whether by direct recruitment or by deputation/absorption and percentage of the posts to be filled by various methods	Direct Recruitment/Transfer. Note: (i) Two out of every three vacancies in the post by absorption from Temporary Status Labourers working under various Department of the Administration excluding LPWD and Electricity Departments having prescribed qualification for direct recruitment in Col.8 failing which by direct recruitment. Remaining 1 post by direct recruitment based on reservation policy of Government of India.”

2.4 In the wake of the framing of the above Recruitment Rules, the Respondents had issued the following order dated 02-02-2009.

"Sub: Implementation of Vith CPC recommendation related to Gr.D staff – reg.

Sir,

Consequent upon the acceptance of the recommendation of Vith CPC by the Government of India related to Gr.D Cadre, all Gr.D employees of Lakshadweep Administration is required to be upgraded to the Group C scale in the pre-revised scale of Rs.2750-4400 and then to be placed in revised Pay Band 1 in Grade Pay of Rs.1800/- with effect from 1.1.2006 in terms of Note 1 below Rule 7 and OM dated, 24.12.2008 of department of Expenditure. Accordingly, the following decision has been taken.

1. Those Gr.D employees in the Common cadre as well as in the technical side of PWD, Electricity, Port, Animal Husbandry, Agricultural Department etc. are possessing prescribed minimum qualification i.e. Matric/ITI can be placed directly into pay band 1 and those Gr.D employees not possessing minimum may be imparted training. The training programme should not exceed 3 months during working days for not more than 2 hours a day. As such all government employees possessing Matric/ITI may be placed in the PB-1 with grade pay of Rs.1800/- with effect from 01.01.2006.
2. As regards to the curriculum of the training, the Establishment Section Secretariat will design the training curriculum for Group D staff under common category viz, Peon, Watchman, Attender etc. The Department of LPWD, Electricity, Port, Education, Medical, Animal Husbandry, Agriculture etc may design training curriculum for other Group D staff working in their departments suited to their requirement.
3. Hereafter no appointment shall be made so SI pay scales and the minimum prescribed qualifications is Matric/ITI for Group'D' posts (PB 1 with Gr.pay Rs.1800) in the case of direct recruitment."

2.5 In addition to the above, notifications calling for applications for filling of certain posts of Multi Skilled Workers have been issued vide Annexure A-11 in OA No. 697 of 2010.

2.6 The applicants have been awaiting orders of regularization in their turn but as the respondents have chosen to adopt the recommendations of the VI CPC relating to Group D Staff, with particular reference to their educational qualifications and multi skilled works, in respect of which Recruitment Rules have been modified and applications called for, these applications have been filed for

quashing of such notification for new recruitment of Group C (for filling up the erstwhile Group D posts) and for a direction for regularization of their services.

3. Prayer:

3.1 Though worded differently, the main relief sought for by the applicants in the above OAs is for a declaration that the applicants are entitled to be absorbed in regular posts of Group C/D and that the respondents should be directed to issue appropriate orders, for regularization of the services of the applicants before any of their juniors are appointed against such Group C/D Posts. It has also been prayed that the relevant notifications calling for applications for appointment of multiskilled employees in the pay band of Rs 5200 – 20200 with Grade Pay of Rs 1800 issued on 09-02-2011 and also letter dated 02-02-2011 relating to implementation of VI CPC Recommendations relating to Group D staff (vide Annexure A-10 in OA No. 697/2010) be quashed and set aside.

3.2 In so far as OA No. 682 of 2010 the claim is that the applicants should be declared as eligible for absorption in preference to the private respondents who are junior to them.

4. Justification for prayer:

4.1 The main grounds justifying the prayer in these OA in all these applications are by and large as under:-

(a) All the applicants are working in the Department under the respondents since early eighties and have been conferred with temporary status as early as in 1993 in accordance with the Scheme framed in 1993.

(b) Though many vacancies in Group D existed in the past, for the last

17 years no one in the Agriculture Department from the list of Temporary Status workers had been appointed against such regular posts by way of regularization

(c) Respondents should adopt the 2:1 ratio for filling up of the existing vacancies in the erstwhile Group D posts.

(d) In fact, in respect of the existing Group D employees, these are imparted three months training course and a similar procedure should be adopted in respect of the Temporary Status employees who are awaiting regularization.

(e) Regularization is a part of the scheme and as such, once a casual labourer has been conferred with temporary service, no new conditions could be introduced for their regularization.

5. Retort of respondents:

5.1 Respondents have contested all the O.As. They had referred to the Scheme of Grant of Temporary Status, in particular condition No. 8(i) which provides that in case of illiterate casual labourers or those who fail to fulfill the minimum qualification prescribed for post, regularization will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourers. The applicants are far below in the seniority list of temporary status employees and further, they do not fulfill the requisite qualifications as per the extant Rules. In agricultural department, there are 22 posts under Group D category (pre amended) lying vacant of which only 13 pertain to agricultural Malis and waterman to be filled up by absorption from the Casual Labourers with Temporary Status till 31-12-2005. Consequent upon the implementation of the Sixth Pay Commission Recommendations, Group D posts have been upgraded

to Group C posts by OM dated 24-12-2008 and minimum qualifications for appointment to such posts have been prescribed either as Tenth Standard Pass or ITI equivalent examination as per Memorandum dated 30-04-2010. Accordingly, Recruitment Rules were modified vide Notification dated 22-07-2009 and similarly posts of multiskilled employees such as Agricultural Malis, Nursery Waterman, Maistry, Spraying & Dusting Operator, Plant Protection Machinery Operator, Field Instructor, Candy Instructor, Lab. Attendants etc., controlled by the Agricultural Department also was amended by Notification dated 13-05-2010. Annexures R(1)(c) to R1(c) in OA No. 697 of 2010 had been filed in this regard. As regards non regularization of Temporary Status employees for the past 17 years, the respondents deny the same stating that in January, 2008 also there were some regularization. The total number of posts (not vacancies as painted by the applicants) are 383 in which only 22 posts are vacant. Identical contentions were raised in the replies wherever filed by the respondents.

5.2 In so far private respondents in OA 682 of 2010, they too have filed their reply contending that their field being beldar while the applicants in the said OA belonging to Agricultural department, there is no link between the applicants and the PWD where the private respondents are serving. Again, the official respondents have also contended that in so far as regularization is concerned it is only those in the same department that are regularized against vacancies arising in that department and as such, the applicants who belong to Agriculture department cannot claim the post of Group D in PWD.

6. Rejoinder to the reply:

6.1 Respondents have in the rejoinders filed in a few cases reiterated their contentions in the OA and added that by virtue of introduction of the new Recruitment Rules, the earlier procedure of imparting of 3 months' training to the Group-D employees had given a go bye and as many as approximately 200

Temporary Status employees in the agriculture and Animal Husbandry department would be left in limbo without regularization if educational qualifications as per the revised recruitment rules are insisted for such regularization.

7. Submission by the Counsel for the applicants:

7.1 Counsel for the applicants in all the OAs have in unison argued that great injustice would be meted to all the applicants and similarly situated casual labourers with temporary status if revised qualifications are insisted for their regularization. They have submitted that these Temporary Status employees were all inducted in early 1980s and in 1993 granted temporary status and at that time, the question of their having the qualification of Matriculation did not arise. Even otherwise, the applicants being from islands which have been distanced from the mainland and which continue to be lagging far behind because of the geographical situation, conservative culture, en-bloc belonging to S.T. Category, lack of adequate educational facilities, and impoverished economic situations, cannot be compared to anyone in the main land. Thus, by treating unequals as equals, insisting the same qualifications as for those in the main land would be acting against the equality clause of the Constitution.

7.2 Counsel for the applicants also submitted that at the time when the scheme was framed, the qualification requirements were such that all the applicants would have fulfilled the same. The scheme is a composite scheme in that apart from grant of temporary status, regularization is also a part of the scheme. Thus, for regularization of the temporary status employees, when it comes to the question of qualifications, it is only that qualification which existed at the time of framing of the scheme should be insisted and not the one recently inserted.

7.3 The counsel further argued that it is not in every case of Group D that the individual would have possessed the qualification of Matriculation. Provision exists for imparting three months' training and such training is imparted to the existing Group D employees who, after such training are treated as Group C employees. Such a procedure could well be adopted by the respondents in respect of the applicants and similarly situated ones and these could well be accommodated against the two-third vacancies which are to be filled up by regularization.

7.4 The counsel for the applicants further argued that had the respondents been accurate in working out the two third and one third vacancies to be earmarked respectively for regularization and direct recruitment, by this time all the casual labourers with Temporary Status would have been accommodated by way of regularization. As such, it would be appropriate if the Respondents are directed to satisfy the Tribunal that there has been religious maintenance of the ratio between the Temporary Status holders and Direct Recruitees in all the years from 1993.

7.5 Legitimate expectation is one of the legal grounds raised by the counsel for the applicants at the time of arguments.

8. Authorities relied:

8.1 In support of their cases, the counsel for the applicants relied upon the following decisions:-

- (a) Dhirendra Chamoli & Another vs State of U.P. (1986) 1 SCC 637
- (b) State of M.P. and Another vs Dharam Bir (1998) 6 SCC 165
- (c) P.V. Joshi & others vs Accountant General, Ahmedabad and Ors (2003) 2 SCC 632
- (d) Commissioner, Corporation of Madras vs Madras Corporation Teachers Mandram & Ors (1997) 1 SCC 253
- (e) Jodhpur Bench decision dated 05-02-2002 in OA No. 76/2002

9. Preliminary technical objection by the counsel for the respondents:

9.1 Counsel for the applicants referred to certain OAs wherein the applicants submitted that they represent certain other individuals working in their department and thus, these OAs are of representational capacity, which is not contemplated in the Administrative Tribunal Act. The OA could at best be filed on behalf of any employee only by a registered union or association in which such aggrieved persons are members and for the Union or Association to file the OA certain specific procedure has been prescribed which are essentially to be followed. The application should therefore deal with the grievance of the very applicants only and not any others as submitted in the OA.

9.2 The next preliminary objection raised by the counsel for the respondents is that initially the very Recruitment Rules were challenged and consequently, notifications issued in pursuance and on the basis of the Recruitment Rules (Annexure A-10 and A-11 in OA No. 697 of 2010) have also been challenged. By way of an amendment application, challenge to the recruitment Rules has been withdrawn and thus, it is only the other two notifications vide Annexure A-10 and A-11 that have been challenged. This challenge cannot stand the scrutiny of law, as the impugned orders are based on the Recruitment Rules which has not been challenged and it is not the case of the applicants that the impugned orders are inconsistent with the terms of Recruitment Rules.

10. Submission by the counsel for the respondents on the main issue

10.1 As regards the contention that in the past the ratio of 2:1 had not been maintained, the counsel argued that such an argument at this belated stage would not hold water in view of the fact that the applications would then be barred by limitation in addition to the fact that the persons who would have occupied the place of the applicants have not been impleaded.

10.2 With regard to OA No. 682 of 2010, where the grievance of the applicants therein is that juniors have been absorbed as beldars in the PWD, while senior temporary status holders in the Agriculture Department had been left out, the counsel submitted that indeed, seniority is maintained in two different ways – (a) Seniority list common to all the Department and (b) Seniority list of each of the Department. This is essential in view of the fact that there are certain Group D posts which are common to all the Departments. As such, as and when vacancies arose in respect of such posts common to all the department, the common seniority list is followed and individuals from the said list on the basis of seniority were considered for regularization. However, where the vacancies that had arisen belong to a particular department then it is the seniority maintained department wise is followed and the senior most among them considered for regularization. As such, the applicants in the said OA No. 682 of 2010 cannot claim preference over the private respondents who belong to the seniority list of PWD and the vacancies pertained to the very same department.

10.3 Counsel for the respondents further argued that the rules are very clear. Regularisation should be on the basis of the provisions as contained in the Recruitment Rules and the qualifications prescribed for each such post should be fulfilled by the Temporary Service employees as otherwise, they could be regularized only against that post where no educational qualifications are prescribed. In so far as the erstwhile posts of Group D are concerned, the same having been converted into Group C posts with a higher qualification prescribed for appointment, unless the applicants fulfill the same, they cannot be considered for regularization. There are a few individuals with S.S.L.C. Qualifications among the Temporary Status Employees and sure enough when their turn comes, they would be considered and their services regularized subject to their fulfilling other

conditions for appointment. The counsel for the respondents also submitted that as per the Apex Court judgment in the case of **Union of India vs Mohanpal (2002) 4 SCC 573** the scheme was not an ongoing scheme but a one time measure.

11. Authorities relied upon by the Counsel for the respondents in their support

11.1 Counsel for the respondents relied upon the following decisions in support of his contentions:-

- (a) (2003) 2 SCC 632
- (b) 2008(9) SCC 242
- (c) 1986 (4) SCC 1
- (d) 1998 (6) SCC 165
- (e) (1997) 1 SCC 253

12. Rejoinder by the counsel for the applicants:

12.1 Counsel for the applicants submitted that there is no doubt that the scheme under which the applicants were granted temporary status was not an ongoing scheme but a one time affair. In other words, there cannot be grant of temporary status in future at any regular interval. Temporary status shall be conferred once the twin conditions attached to the scheme were fulfilled at the time of introduction of the Scheme. In the case of the applicants, as they had fulfilled the requisite conditions as on the date specified in the scheme (01-09-1993), they were afforded the necessary Temporary Status. The scheme is a composite scheme, as is evident from the very subject matter "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme." Thus, grant of temporary status should be followed by Regularization. Once temporary status is granted, the logical sequence is regularization, subject, of course, to availability of vacancies under the two third quota meant for regularization.

13. Disposal of the M.As pending in these cases

While hearing the main matter, parties have also presented their case in respect of the M.As filed by the respective parties as the M.As had not been

disposed of till then. As such, after hearing the parties of such M.As, the same are decided as hereunder:-

Sl no	M.A. No	O.A. No.	Filed by	Prayer	Decision
	285/11	697/2010	U.O.I.	Deletion of First respondent	Though no relief is sought, as it is the administrative ministry, as a proforma party, its inclusion in the array of respondents is appropriate and as such, the said M.A. is rejected.
	604/11	-do-	Applicant	Amendment to OA	Allowed and challenge against Recruitment Rules treated as withdrawn.
	608/11		Private party	For clarification of interim order passed in the OA	In view of order dated 04-10-2011, MA is closed.
	-	697/2011	Applicants	For appointment of Commissioner	The MA had been filed on 26 th September, 2011 (refiled on 11-10-2011) As this M.A. has been filed just before the date of hearing, and as the case has been finally heard, this M.A. is closed without any orders. Registry shall number this M.A.
	714/10	799/2010	Applicant	U/R 4(5) of the CAT Rules	Allowed.
	283/11		U.O.I.	Deletion of 1 st Respondent	Though no relief is sought, as it is the administrative ministry, as a proforma party, its inclusion in the array of respondents is appropriate and as such, the said M.A. is rejected.
	603/11	148/11	Applicant	For amendment	This is for interim order and hence has become infructuous.
	315/11	390/11	Applicant	U/R 4(5) of the CAT Rules	Allowed.
	152/11	169/11	Applicant	U/R 4(5) of the CAT Rules	Allowed.
	605/11	169/11	Applicant	For amendment	This is for interim order and hence has become infructuous.

Sl no	M.A. No	O.A. No.	Filed by	Prayer	Decision
	319/11	400/11	Applicant	U/R 4(5) of the CAT Rules	Allowed.
	87/11	100/11	Applicant	U/R 4(5) of the CAT Rules	Allowed.
	571/11	682/10	Third party	For impleadment	Already allowed by way of a docket order.

14. Discussion on technical objections raised by the counsel for the respondents:

14.1 The technical objection that individual applicant claims that he represents a number of other Temporary Status Holders is sustained. For, it is only any registered Union or Association that could represent other individuals. As such OA No. 697 of 2010 confines itself only to the four applicants and not others whom such applicants represent.

15. Similarly, in so far as claim for regularization from the past is concerned, counsel for the applicant submitted that the two third vacancies meant for regularization had not been duly worked out in the past which resulted in a number of temporary status holders having remained non-regularized. Counsel for the applicants prayed for verification of the records of the past so that such vacancies meant for regularization could be utilised by regularising the applicants and similarly situated others on the basis of the seniority list maintained by the respondents. Counsel for the respondents objected to the above claim on the ground that limitation stares at the face of the applicants in regard to this claim and further, the OA would suffer from the deficiency of non joinder of necessary parties as none of the individual who would have been accommodated against the two-third vacancies has been impleaded. The argument of the counsel for the respondent is well founded. Hence, the claim is restricted only to the entitlement of the applicants to prospective regularization.

16. Discussion on the seminal issue in the O.As

16.1 Arguments were heard and documents perused. The judgments relied upon have also been taken into account.

16.2 Before going into the subject matter pertaining to all the applicants, in so far as OA No. 682 of 2010 is concerned, the claim of the applicants is that juniors have been appointed as Beldars which is illegal and the contention of the respondents is that seniority is maintained in two different ways – (a) one common seniority wherefrom regularization against vacancies of common posts in any department are filled up and (b) seniority of temporary status casual labourers appointed in a particular ministry. When vacancies in group D posts in these departments are such these could not be filled in from the common seniority (for example Beldar in LPWD) it is only from the seniority list maintained in that particular department that regularisation could take place. This argument of the respondents is acceptable so far as regularisation already taken is considered. However, if under multi functional work is involved, the expectation is all should be able to perform any duty assigned to them. That aspect is considered at the appropriate stage.

16.3 What the Apex Court has held in '*Mohanpal*' is

"However, we make it clear that the Scheme of 1-9-1993 is not an ongoing scheme and the "temporary" status can be conferred on the casual labourers under that Scheme only on fulfilling the conditions incorporated in clause 4 of the Scheme, namely, they should have been casual labourers in employment as on the date of the commencement of the Scheme and they should have rendered continuous service of at least one year i.e. at least 240 days in a year or 206 days (in case of offices having 5 days a week)."

17. Admittedly, the applicants had been afforded with the temporary status in accordance with the scheme introduced in September, 1993 as they had fulfilled

the twin conditions on the date of commencement of the Scheme. The interpretation of the term one time scheme put forth by the counsel for the applicants has to be accepted. Once the temporary status has been granted the logical sequence has to follow. It is to be seen as to how the issue of necessity for regularization has been viewed by the Apex Court. In the very same judgment in the case of Mohanpal, after extracting the decision of the Division Bench of the High Court, the Apex Court has held as under:-

"The employers cannot at their whim dispense with the services of the casual labourers who have acquired "temporary" status. The entire object of the 1993 Scheme was to regularise all casual workers. To allow such uncanalised power of termination would also defeat the object of the Scheme." (emphasis supplied)

18. With the grant of temporary status, the applicants have by now worked for nearly a score of years. Their temporary status was preceded by their service as a casual labourer for a period of a decade plus. Their service as a casual labour was also in accordance with the then available provisions for such engagement. It is nobody's case that their earlier engagement was not in accordance with law. It has been held in the case of Union of India vs Vartak Labour Union (2) (2011) 4 SCC 200 -

"22. Therefore, in the facts and circumstances of the instant case, where members of the respondent Union have been employed in terms of the Regulations and have been consistently engaged in service for the past thirty to forty years, of course with short breaks, we feel, the Union of India would consider enacting an appropriate regulation/scheme for absorption and regularisation of the services of the casual workers engaged by the BRO for execution of its ongoing projects."

The spirit of the above judgment is evident – persons engaged in service in terms of certain regulations and have been consistently engaged in service for a substantial period deserve regularization and if there is no provision for regularization, the Government should consider enacting an appropriate

regulation/scheme for absorption and regularization of the services of the casual workers. Here is the case where such a provision for regularization already exists and the Apex Court itself has, in Mohanpal, stated that the entire object of 1993 scheme is to regularise all casual workers.

19. In the case of Oil & Natural Gas Corporation Ltd. Vs Engg. Mazdoor Sangh (2007) 1 SCC 250, when an industrial dispute arose as to who should be regularized in service, the Industrial Tribunal held that all those who had completed the requisite days of service in a year should be regularized and in that train even seasonal casual workers were also included. Regularization was subject, however, to the availability of vacancies. The Single Bench and Division Bench of the High Court held that even in the absence of permanent post, these could be regularized. However, the Apex Court modified the said judgment of the High Court as under:-

"14. We have carefully considered the submissions made on behalf of the respective parties and we are unable to agree with the reasoning both of the learned Single Judge as well as the Division Bench of the High Court in firstly directing that the 153 workmen concerned be treated on a par with regular employees as far as all benefits are concerned, except for being given permanent status and the subsequent direction of the Division Bench directing that they be treated as having been notionally regularised with effect from 1-5-1999. Having regard to the nature of employment and the period during which these field workers are employed, it would create various difficulties if the seasonal workmen were to be treated on a par with regular employees as directed by the learned Single Judge. It would be even more difficult for the appellant to adjust the workmen in permanent employment when the need for them was only seasonal. Admittedly, these workmen who are employed for field survey work are employed for about six months in a year between November and May. If at all they are to be regularised, the appellant will have to find work for them during the months when their services would otherwise have not been required. As pointed out by Mr Salve, previously the appellant had monopolistic control over geological survey work for oil and natural gas but today the scene has changed and it is just another competitor along with others, notwithstanding the fact that they are a government company. The appellant is now required to compete with others in securing exploration work and can only recruit field workers as and when required. Even then the learned Tribunal found a via media in directing that the 153 workmen who had admittedly completed 240 days and had acquired a temporary status be regularised against vacancies as and when such vacancies became available.

15. We are of the view that the directions given by the learned Tribunal are reasonable and should be allowed to stand as against the directions given by the High Court, firstly to treat the said 153 workmen on a par with the regular employees and thereafter to treat their services as having been notionally regularised from 1-5-1999. We can, of course, add a few further safeguards in order to protect the interests of the said 153 workmen so that they are assured of employment as before.

16. We, accordingly, dispose of this appeal by setting aside the judgments and orders of both the learned Single Judge and the Division Bench of the High Court and restoring the judgment and order passed by the Tribunal. We, however, add that till such time as these 153 workmen are not absorbed against regular vacancies in the category concerned no recruitment from outside will be made by the appellant. Furthermore, even in matters of seasonal employment, the said 153 workmen or the numbers that remain after regularisation from time to time, shall be first considered for employment before any other workmen are engaged for the same type of work in the field."

20. The spirit behind the above decision is also that regularization of service should be the aim and till then the services shall not be terminated.

21. The respondents are not averse in regularizing the services of the applicants. What is coming in the way of regularization is the new Recruitment Rules which provide for certain qualifications, which the applicants do not possess. True, at the time when the applicants had been engaged as a casual labour or for that matter granted temporary status, the qualifications for group D had been such that most of the temporary status holders would be in a position to fulfill the requisite qualifications. However, after the amendment to the Recruitment Rules, the situation has drastically changed. The Group D post has been converted into Group C post; the limited functional responsibility enlarged into what is called the multi skilled work; the educational qualifications have been enhanced to Matriculation or ITI. Temporary status employees in any department, say, Animal Husbandry may not be engaging themselves in a job which may warrant Matriculation qualifications. Labourers hitherto engaged in collection of cow dung or mixing the fodder may not require higher qualifications for performing the said duties. Their experience alone counts there. Such jobs may be plenty in departments such as Animal Husbandry etc., Even if they are

to be trained in multi skilled jobs, they could be imparted necessary practical training. Disqualifying them as not possessing the qualifications of Matriculation, or compelling them to acquire Matriculation whereafter only their services could be regularized would all cause hardship to the applicants and similarly situated persons. The rule that two third of the vacancies should be filled up by way of regularization even as per the latest Recruitment Rules would be rendered otiose if consideration be not given for relaxation of the rules. For, in places like Lakshadweep Islands, perhaps for filling up the post by direct recruitment under the failing which clause may also not be possible as the islanders may not have that much education. Even if there be available persons with such qualifications, in so far as the applicants and similarly situated individuals are concerned, who have put in nearly three decades of casual service of which two third period is with temporary status, their legitimate expectation should not be frustrated. Here exactly is the place of power to relax as conferred by the Recruitment rules, which could be considered. The Apex Court has, in the case of **J.C. Yadav vs State of Haryana (1990) 2 SCC 189** has occasion to consider the rule 'power to relax' which is in pari materia with the same term in the Recruitment Rules, vide Rule 5 thereof, which reads as under:-

"5. Power to relax: Where the Administrator, Union Territory of Lakshadweep is of the opinion that it is necessary or expedient so to do, he may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules, with respect to any class or category of persons except rule 4 of these Rules.

22. The Apex Court in the said case of **J.C. Yadav** has stated as under:-

"22. Power to relax.— * * *

Where government is satisfied that the operation of any of these rules causes undue hardship to any particular case, it may by order dispense with or relax the requirements of that rule to such extent, and subject to such conditions, as it may consider necessary for dealing with the case in a just and equitable manner.

* * *

6. The rule confers power on the government to dispense with or to relax the requirement of any of the rules to the extent and with such

conditions as it may consider necessary for dealing with the case in a just and equitable manner. The object and purpose of conferring this power on the government is to mitigate undue hardship in any particular case, and to deal with a case in a just and equitable manner. If the rules cause undue hardship or rules operate in an inequitable manner in that event the State Government has power to dispense with or to relax the requirement of rules. The rule does not restrict the exercise of power to individual cases. The government may in certain circumstances relax the requirement of rules to meet a particular situation..... Rule 22 postulates relaxation of rules to meet a particular event or situation, if the operation of the rules causes hardship. The relaxation of the rules may be to the extent the State Government may consider necessary for dealing with a particular situation in a just and equitable manner. The scope of rule is wide enough to confer power on the State Government to relax the requirement of rules in respect of an individual or class of individuals to the extent it may consider necessary for dealing with the case in a just and equitable manner. The power of relaxation is generally contained in the Rules with a view to mitigate undue hardship or to meet a particular situation. Many a time strict application of service rules create a situation where a particular individual or a set of individuals may suffer undue hardship and further there may be a situation where requisite qualified persons may not be available for appointment to the service. In such a situation the government has power to relax requirement of rules. The State Government may in exercise of its powers issue a general order relaxing any particular rule with a view to avail the services of requisite officers. The relaxation even if granted in a general manner would ensure to the benefit of individual officers."

23. In a subsequent decision in the case of , Ashok Kumar Uppal vs State of J & K (1998) 4 SCC 179, the Apex Court has held as under:-

"26. Power to relax the Recruitment Rules or any other Rule made by the State Government, under Article 309 of the Constitution of which the corresponding provision is contained in Section 124 of the Constitution of Jammu and Kashmir, is conferred upon the Government to meet any emergent situation where injustice might have been caused or is likely to be caused to any individual employee or class of employees or where the working of the Rule might have become impossible. Under service jurisprudence as also the Administrative Law, such a power has necessarily to be conceded to the employer particularly the State Government or the Central Government who have to deal with hundreds of employees working under them in different departments including the Central or the State Secretariat. " (emphasis supplied)

24. The Tribunal is not oblivious to the law laid down by the Apex Court in the case of State of M.P. Vs Dharam Bir (1998) 6 SCC 165 wherein the Apex Court

has held:

"Power to relax the Rule vests exclusively in the Governor as provided by Rule 21. This power cannot be usurped by the court or the tribunal."

25. But the Tribunal does enjoy the power to point out various decisions the Apex Court wherein it has been held that power to relax should be invoked in deserving cases so that the same would be kept in view by the Administrator while considering the matter. While the Tribunal cannot direct that the power to relax should be invoked, power to issue direction to consider the same is well within the jurisdiction of the Tribunal.

26. If the spirit behind various judgments of the Apex Court is considered, it would be evident that the balance tilts in favour of the employees. In fact, in the case of, the Apex Court has held that such a power to relax could be exercised even retrospectively vide *M.Venkateswarly vs Govt of A.P.* (1996) 5 SCC 167 wherein the Apex Court has held-

"8. Thus it could be seen that the Governor is empowered to relax the rigour of the General Rules in such manner as may appear to him to be just and equitable in the interest of justice and equity. Justice can be done only by exercising the power retrospectively." (emphasis supplied).

27. Reference to another identical case was made by the Apex Court in the case of *Santosh Kumar vs State of A.P.* (2003) 5 SCC 511 wherein the Apex Court has stated as under:-

"14. Yet, another decision of this Court in *P.V.T. Phillip v. P. Narasimha Reddy* supports the case of the respondent to the effect that power to relax under Rule 47 can be exercised with retrospective effect wherever required in the interest of justice and equity.

28. Thus, keeping in view the peculiar features of these cases, with the aforesaid decisions of the Apex Court in heart (especially the decision in *J.C.*

Yadav cited above), if the case is viewed, the case of the applicants deserves invoking of the relaxation power vested with the Administrator and accordingly direct the respondents to consider relaxation of the qualification requirement in respect of the applicants and similarly situated temporary status casual labourers. The applicants with nearly thirty years of casual labour service of which twenty years of service was with temporary status may not be left in lurch on the basis of the introduction of the new condition of higher qualification. (Decision of the Apex Court in the case of ONGC cited above refers). They could well be considered for regularization after duly considering the case for relaxation of the rules and on grant of regularization they could be imparted three months training to equip themselves with the knowledge of the multi skilled works. Such a training could be given even prior to regularization, as regularization would take some time depending upon the availability of vacancies in the ratio of 2:1 as per the Recruitment Rules. Till then, the applicants should continue as temporary status casual workers with the attendant benefits attached to such temporary service. Respondents may consider judiciously and pragmatically, keeping in view also the disadvantageous caused to the islanders due to their being totally cut off from the mainland, and arrive at a decision in regard to the invoking of power to relax as contained in the Recruitment Rules and if so decided, pass suitable orders for such relaxation. Thereafter, as and when vacancies arise, in the quota meant for such temporary status employees, their services be regularized. In view of the fact that there shall be multi-skilled workers, while filling up the posts in future by way of regularization, the same shall be on the basis of seniority in the common roster and not of the individual department. The benefits arising out of such regularization (such as qualifying service for pension purpose, which would include half of the temporary status service) may be made available. The Administrator is the authority in this regard, of course, in consultation with the relevant Ministry/department in the

Central Government. The Administrator may in exercise of its powers issue a general order relaxing any particular rule with a view to avail the services of requisite Temporary Status Casual labourers. If the functional needs do not warrant a higher qualification, the Administrator could fix the qualification in such a fashion that the same could accommodate majority of the temporary status employees. Of course, those who are nearing sixty or to reach sixty in the near future and whose seniority position is comparatively low, on account of which their turn for regularisation may not come, may not be in a position to be accommodated. These have to be satisfied with the temporary status alone.

29. The O.As are disposed of with the above directions.
30. Under the circumstances, there shall be no orders as to costs.

Dated, 22nd November, 2011.

Dr K.B.S.RAJAN
JUDICIAL MEMBER

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