

**Central Administrative Tribunal
Lucknow Bench Lucknow**

**Original Application No.509/2005
This, the 20th day of December 2007**

HON'BLE MR. M. KANTHAIAH, MEMBER (J)

Ranjit Misra, aged about 61 years, son of Late Doodnath Misra, Resident of Village Dulhapur, Post Mahadeva (Lambhua), District Sultanpur.

Applicant.

By Advocate:- Shri Surendran P.

Versus.

1. Union of India through the Secretary, Department of Posts, New Delhi.
2. Chief Postmaster General, U.P. Circle, Lucknow.
3. Director of Postal Services, Lucknow Region, Lucknow.
4. Superintendent of Post Offices, Sultanpur.

... Respondents.

By Advocate:- Shri K.K. Shukla.

**Connected with
Original Application No.587/2006**

Ram Das, aged about 60 years, son of Shri Ram Pal (Rtd. From the post of Chowkidar), Resident of Village and Post-Bisahi, District-Faizabad.

Applicant.

By Advocate:- Shri Giresh Kumar.

Versus.

1. Union of India through the Secretary, Ministry of Communication, Department of Posts, New Delhi-110001.
2. Chief Postmaster General, U.P. Circle, Lucknow.
3. Superintendent of Post Offices, Faizabad.

... Respondents.

By Advocate:- Shri K.K. Shukla.

ORDER

BY MR. M. KANTHAIAH, MEMBER (J)

In both these Original applications, the dispute involved is common in respect of grant of pension to the applicants, who have been retired while working as Temporary Group-D employees.

2. The applicant have filed their respective OAs to issue a direction to the respective respondents to provide pension to them on the ground that they have completed more than 10 years of continuous service as temporary status Group-D employees basing on the law laid down by the Apex Court in the case of Jagrit Mazdoor Union & Others under Rule -154-A of Manual of Appointment and Allowances of Officer of Indian Postal & Telegraph Department.

3. The respondents have opposed the claim of the applicant by filing their respective counter affidavits on the ground that the

applicant² have not been regularized and they have been retired only as temporary status employees and as such they are not entitled for pensionary benefits.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief of pension as prayed for.

6. Before going to discuss in respect of the dispute between the parties, it is better to narrate the admitted facts of each case.

7. **O.A.No.509/2005**

The applicant in this case was appointed as C.P. Chowkidar on 29.8.1978 vide (Annexure-2) and worked continuously and after introduction of Casual Labour (Grant of Temporary Status & Regularization) Scheme, temporary status was granted to him alongwith 42 others w.e.f. 29.11.1989. Annexure-4 Dt. 07.01.1997 is the copy of the said order. Subsequently, applicant was treated at par with temporary status Group D employee w.e.f. 29.11.1992 after completion of 3 years of continuous service in temporary status. Annexure-5 Dt. 03.02.1997 reveals the same. On completion of 60 years of age, the applicant retired from service on 31.10.2003. It is also not in dispute that the applicant completed 14 years service as temporary status Group-D employee and prior to it, for about 11 years he worked as C.P. Chowkidar.

8. **O.A.No.587/2006**

The applicant was appointed on the post of C.P. Chowkidar on 5.4.1982 (Annexure-1) and subsequently, the said post of C.P. Chowkidar was abolished in the month of February, 1988. In the month of May, 1989, when abolished post was restored and issued

appointment orders for the earlier employees, the applicant joined on 01.06.1989. Annexure-3 and Annexure-3-A reveals the same. After introduction of Casual Labour (Grant of Temporary Status & Regularization) Scheme, the applicant was granted temporary status w.e.f. 29.11.1989. Annexure-5 is copy of such order. After completion of 16 years, the applicant had retired from service on 31.7.2006 Annexure-8 ~~is~~ the copy of charge report of retirement.

9. The applicant's claims that they become regular Group-D employees after rendering three years of continuous service with temporary status and they shall be treated at par with Group-D employees and thus they are entitled to all such benefits as are admissible to Group-D employees on regular basis. To substantiate their claims, they have relied on the judgment of Apex Court in the case of Jagrit Mazdoor Union & Others and also the provisions of Clause-154 of Manual of Appointment & Allowances of Officer of the Indian Posts and Telegraph Department.

10. The respondents admitted that the applicants had rendered more than 10 years of continuous service after granting of temporary status but their services have not been regularized and retired while working as temporary status Group-D employees and as such they are not entitled for pensionary benefits without grant of permanent status. It is not the case of the applicants that their services had been regularized on permanent status after completion of 3 years service in the temporary status Group-D employees.

11. In view of the above rival claims the short and limited question involve in this case.

1. Whether the applicants are entitled for pensionary benefits at par with regular Group-D employees.

2. Top what relief.

12. **Point No.1**

It is the case of the applicants that they worked for more than 10 years of continuous service as temporary status Group-D employees and after completion of 3 years of continuous service with temporary status they ^{had been} treated at par with temporary Group-D employees and thereby ² they are entitled to such benefits as are admissible to Group D employees of regular basis and thus claimed pensionary benefits and in support of it they have relied on the decision reported in the case of Jagrit Mazdoor Union & Others Vs. Union of India & Others reported in 1990 (13) ATC-768 decided on 29.11.1989. The applicants have also filed copy of Casual Labour (Grant of Temporary Status & Regularization) Scheme (Annexure-3) and communication Dt. 30.11.1992 issued by the then ADG (SPN) Department of Post, new Delhi addressed to all the Heads of Circles in respect of regularization of services of casual laborers.

13. Para-12 of the judgment of Jagrit Mazdoor Union & Others, the Apex Court while discussing the benefits available to the employees of temporary status in the postal department, ² it has been held that after rendering three years of regular service with temporary status, the casual laborers shall be treated at par with temporary status Group-D employees of the department of post and thereby they are entitled to such benefits as are admissible to Group-D on regular basis. Similarly, the recitals of scheme i.e. Casual Labourers (Grant of Temporary

Status & Regularization) Scheme (Annexure-3) and Clause-8 of it says that after rendering three years continuous service and after conferment of temporary status, the casual labourers would be treated at par with temporary status Group-D employees for the purpose of contribution of GPF. They would also further be eligible for grant of Festival Advance/ Flood Advance as the same are applicable to the temporary Group-D employees provided they further furnished two sureties form permanent Govt. Servants of this department. Further Clause-7 says that conferment of temporary status does not automatically imply that the casual labourers would be appointed as regular Group-D employees with any fixed time frame. Appointment of Group-D vacancies will continue to be done as per the extent recruitment rules, which stipulate preference to eligible ED employees.

14. The applicant also filed (Annexure-7), which is the communication of the then ADG (SPN) Department of Posts, New Delhi addressed to all the Heads of Circles basing on casual Labourers (Grant of Temporary Status & Regularization) Scheme. Clause-3 of the said communication reveals that in compliance with the direction of the Hon'ble Supreme Court Dt. 29.11.1989, it has been decided that the casual labourers of this department conferred with temporary status as per the scheme Dt. 12.4.1991 be treated as par with temporary Group-D employees w.e.f. the day they complete three years continuous service in the accorded temporary status as per the above scheme. From that date they will be entitled to the benefits admissible to temporary Group-D employees and given details of such benefits.

15. From the judgment of Apex Court in the case of Jagrit Mazdoor Union & Others and also the Casual Labourers (Grant of Temporary Status & Regularization) Scheme covered under (Annexure-3) and also communication issued by the then ADG (SPN) Department of Post, New Delhi clearly shows that the casual labourers, who conferred temporary status be treated at par with temporary Group D employees w.e.f. the date they completed 3 years of service in the cadre of temporary status Group D employees, which are in respect of GPF, CCGIS, LTC, Bonus, Medical Aid and also counting of service for the purposes of pension and terminal benefits in the case of temporary status employees appointed on regular basis.

16. But neither the decision of the Apex Court nor the Casual Labourers (Grant of Temporary Status & Regularization) Scheme and also the Circular of the respondents department does not say that temporary status employees, after completion of three years are entitled to all the benefits of regular Group-D employees, who are entitled for pension.

17. It is not the case of the applicants that their services have been regularized as Group-D services at any time and without such regularization, claiming the benefits of pension to treat them as regular Group-D employees is not at all maintainable. Further,, the decision relied by the applicants in the case of Jagrit Mazdoor Union and also the Casual Labourers (Grant of Temporary Status & Regularization) Scheme, 1991 and subsequent Circular of the department and not helpful to say that the temporary status Group-D employees should be treated at par with regular Group-D after completion of three years continuous service on confirmation of

temporary status. Whatever, benefits granted to the temporary status casual labourers are to be treated at par with temporary s Group-D employees after completion of three years continuous service with temporary status, which are in reset of Leave, Holidays, CGGIS, GPF, Medical Aid, LTC, Advances, Bonus and also for counting of service for the purposes of pension and terminal benefits in the case of temporary employees appointed on regular basis for those temporary employees, who are given temporary status and ^{shall} ~~shoe~~ complete three years of service in that status while granting them pension and retirement benefits after their regularization. Thus, the decision relied of the Apex Court in the case of Jagrit Mazdoor Union & Others and also Causal Labourers (Grant of Temporary Status & Regularization) Scheme (Annexure-3) and also Circular issued by the department under (Annexure-A-7) are not at all helpful to the applicant to allow their claims for payment of pension and to treat them as regular Group-D employees after completion of three years of continuous service on conferment of temporary status to the casual labourers.

18. The applicant also relied on the decision of the coordinate Bench in O.A.No.917/2004 on the file of Central Administrative Tribunal, Allahabad Dt. 02.09.2005 in the case of Chandi Lal Vs. Union of India & Others. The said decision in the case of Chandi Lai is not helpful to say that he being a temporary status Group-D employee, entitle for pensionary benefits and there was no such finding that temporary status Group-D employees are entitled for pensionary benefits at par with regular Group-D employees. Further for relying on the decision of the coordinate bench ^{as} precedent arise, if is decides a question of law.

But no such circumstances are prevailing to rely on the above decision of Chandi Lal.

In view of the above circumstance, the claim of the applicants for grant of pensionary benefits, while working on temporary status Group-D employees is not at all maintainable, hence there are no merits in the claim of the applicants. Hence this point is decided against the applicants.

Point No.2:-

In the result, both these OAs are dismissed. No costs.

(M. KANTHAIAH)
MEMBER (J)

20.12.2007 -

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