

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA.

REGISTRATION NO. OA 652 of 1996

DATE OF ORDER : 26.06.2000

1. Jai Ram Pandey, son of late Ramdeo Pandey, aged about 35 years, resident of village and P.O., Karsar, P.S. Raghunathpur, District - Siwan, at present, temporary status made casual labourer in the office of Sub-record office, RMS U-Dn., Siwan.
2. Brajendra Kumar Singh, son of late Ramkripal Singh, aged about 36 years, resident of village, Baruan, P.O.- Ramnagar via Raghunathpur, District- Siwan, at present working as Generator Operator, Siwan RMS in RMS U Division.
3. Mankeshwar Sharma, son of late Kishun Sharma, aged about 26 years, resident of village - Kandrauli, P.O. Mandrauli, P.S. M.H. Nagar, District - Siwan, at present working as temporary status casual labourer in the office of SPO RMS U-Division, Siwan.
4. Dewanand Prasad Gupta, son of Shri Nawal Kishore Prasad, aged about 25 years, resident of Mohalla Makdumsarai Kali Asthan P.O. Siwan, P.S. Siwan, at present working as temporary status labourer in the office of SPO RMS U- Division, Siwan.
5. Nageshwar Prasad, son of Shri Jalandhar Prasad, aged about 32 years, resident of Mohalla Dakhin Tola in the town of Siwan, P.O. & P.S. Siwan, at present working as temporary status casual labourer in the office of SPO RMS U- Dn. , Siwan.
6. Ganesh Prasad, son of late Girja Nandan Prasad, aged about 38 years, resident of village, Surapur Chhapia, P.O. Chhapia, P.S. Hissainganj, District, Siwan, at present working as temporary status paid Generator Operator in the office of the SPO RMS Division, Siwan.

.....APPLICANTS.

By Advocates Shri N.P. Sinha with Shri I.O. Prasad.

Versus

1. Union of India through the Postmaster General (North), Muzaffarpur.
2. Director of Postal Services, Northern Region, Muzaffarpur
3. Superintendent of RMS U-Division, Muzaffarpur.
4. Sub-record Officer, RMS, U-Division, Siwan.

.....RESPONDENTS.

By Shri H.P. Singh, Addl. Standing Counsel.

C O R A M

Hon'ble Mr. Justice S. Narayan, Vice-Chairman

Hon'ble Mr. L.R.K. Prasad, Member (A)

O R D E R

(Dictated in open court)

Justice S. Narayan, V.C.:- The applicants, being six in number, have joined hands together with a prayer for directions upon the respondents to absorb them against Group 'D' cadre posts as per their eligibility with all consequential reliefs.

2. Before we look into the merit of the case, it is apt to point out that the applicants have nowhere agitated against the appointment of any one, earlier made against Group 'D' post. What they simply wanted that since they had worked as casual daily rated Majdoor with temporary status, they had acquired right for absorption against the Group 'D' posts. This aspect of the matter has not particularly been denied altogether. This, we gather from paragraph 4 of the written statement filed on behalf of the respondents that once in the early part of the year 1994, out of the present six applicants, as many as four had appeared in some suitability test for their absorption against Group 'D' posts, but unfortunately, they did not succeed. In this context, the respondents have ^{also} fairly submitted in the written statement that as and when occasion would arise, depending

upon the number of vacancies in Group 'D' post, it shall be open for the applicants to appear in the test, and prove their merit for their absorption in the vacant Group 'D' posts.

3. In the matter of selection of the applicants, be it recorded that there is no dispute between the parties that the selection process against Group 'D' post have been spelt out in paragraph 7 of the Appendix XII of the P&T Manual Vol. IV known as Indian P&T (Class IV Posts) Recruitment Rules, 1970, which speaks as follows;

"Section 1 Subordinate Units.

Para-7: Test category posts:- Vacancies in class IV test category posts in each year in all branches (postal), RMS Telegraph and Engineering) of the Indian Posts and Telegraphs Department will be filled from among the boy-peons available in the recruitment unit at the time of selection. If however, certain vacancies of a year are left unfilled after providing all boy peons, the same may be filled up from among categories specified and in the order indicated below. Recruitment from among the next category is to be made only when there is no qualified person available in any of the higher category or categories.

Sanjay

- (i) Non-test category class IV staff.
- (ii) Extra Departmental Agents.
- (iii) Casual labourers.
- (iv) Part time casual labourers.
- (v) Nominees of the employment Exchanges."

4. Added to the above provisions, we find it necessary also to refer to the guidelines as contained in Government of India, Department of Personnel & Training OM No. 51016 dated 10.9.1993, which speaks about the procedures for filling up of Group 'D' post, a relevant portion of which is placed herein as below;

"8. Procedure for filling up of Group 'D' Posts:-

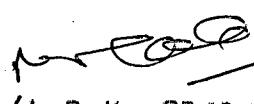
(i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant Recruitment Rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfil minimum qualification prescribed for the post, regularisation 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 labourer.

5. Therefore, having regard to the above provisions on selection process for casual labourers, we have arrived at a definite conclusion that the case in hand does not speak of denial of appointments to the applicants on any previous occasion. Rather, it was open for the

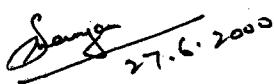


applicants to move the respondents authorities for their absorption against Group 'D' posts as and when the occasion arises, subject to the aforesaid guidelines having statutory force.

6. Thus, the instant OA is disposed of with direction as above. There shall be no order as to costs.

 27.6.2000
(L.R.K. PRASAD)

MEMBER (A)

 27.6.2000
(S. NARAYAN)

VICE-CHAIRMAN

/CBS/