

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH

O.A.NO.: 85 OF 2006

w i t h

O.A.NO.: 90 OF 2006

[Patna, this Friday, the 5th Day of October, 2007]

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C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.

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1. O.A.NO.: 85 OF 2006

Hemant Kumar Singh,
S/o Lalan Prasad Singh.

2. O.A.NO.: 90 OF 2006

Pintoo Kumar @ Mohit Kumar,
S/o Surendra Prasad.

Vs.

Union of India through Chief Postmaster
General, Bihar Circle, Patna & Ors.

.....

Counsel for the applicants:- Shri S.K.Bariar.

Counsel for the respondents:- Shri R.K.Choubey, ASC.

O R D E R [ORAL]

Justice P. K. Sinha, V.C.:- This application has been heard along with OA 90 of 2006 and since the core matter to be decided in both the applications is same, both the applications on being heard together are being disposed of by a common order.

2. Heard learned counsel for the applicants and learned counsel for the respondents.

At the outset, the learned counsel for the applicants submits that in view of the decision of the Apex Court in the case of **Secretary, State of Karnataka Vs. Umadevi [2006 [2] PLJR 363 = 2006 [4] SCC 01]** he would not be pressing the prayer for absorption of the applicants to regular Group 'D'

8/10/07

posts. The second prayer is for enhancement of working hours and consideration of their case as per 'Department of Posts [Group 'D' Posts] Recruitment Rules, 2002'.

3. The applicants are part time casual labourers in the Department of Posts who have come up for their absorption to regular Group 'D' posts as also for enhancing their working hours, from four hours to eight hours per day.

4. In so far as question of their absorption in regular Group 'D' posts is concerned, obviously this prayer cannot be allowed in view of the decision of the Apex Court in the Constitutional Bench judgment in the case of **Secretary, State of Karnataka Vs. Umadevi; 2006 [2] PLJR 363 = 2006 [4] SCC 01**. Therefore, at the outset that prayer has to be rejected.

In so far as the prayer for enhancing the working hours is concerned, a batch of cases were heard and disposed of by this Tribunal in Division Bench [OA 521 of 2000 & Ors.; **Md. Hanif & Ors. Vs. Union of India & Ors**] by order dated 11.10.2006 in which the prayer in some of the cases for enhancement of the working hours was also made.

5. Casual labourers may be engaged if situation so arises by the different departments. But once the work/project culminates, such casual labourers, full time or part time, cannot claim their further retention. Also keeping in view that the working hours are to be determined by the employer according to their needs, this Tribunal in the batch cases aforesaid had held that an employer cannot be directed to increase the working hours.

Therefore, this prayer also cannot be allowed.

6. The learned counsel for the applicants submits that a Scheme that is in vogue in the Postal Department known as 'Department of Posts



[Group 'D' Posts] Recruitment Rules, 2002' framed under proviso to Article 309 of the Constitution of India provides, as per Schedule II to the aforesaid Rules, as to how the posts such as ^{of}Peons, Letter Box Peons ^{etc.} in the sub_ordinate offices are to be filled up. Different percentage have been given to different employees including casual labourers, full time or part time, in order of preference, who could be considered for regular appointments.

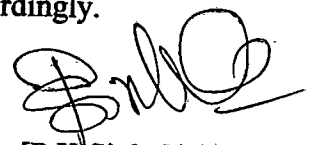
On behalf of the respondents it is admitted that this Scheme is still continuing.

7. Learned counsel for the respondents submits that, therefore, the case of these applicants may be considered when their turn comes under the aforesaid '2002 Recruitment Rules'.

8. This appears to be a just prayer. The respondents will consider the case of the applicants when their turn comes under the aforesaid '2002 Recruitment Rules' for their posting in a Group 'D' post, as it has been submitted that the applicants are continuing to work as part time casual labourers.

9. Except the aforesaid direction and observation, other prayers as made in this application are not fit to be allowed, hence rejected.

These two applications stand disposed of, accordingly.



[P.K.Sinha]/VC

skj.