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IN THE CENTRAL ADMINISTRATIVE TRIB-UNAL
NEW BOMBAY BENCH
NEW BOMBAY - 400614

O.A . Nos. 714/88
715/88
716/88
717/88
718/88

O.A. No.714/88

1. Sambhaji Dhondiba Salunke
2. Shahajirao Ramchandra Mate
3. Ramesh Dattu Wanjale
4. Dilip Nivrutti Charawade
5. Dnyanoba Charlie Wanjale
6. Gotiram Rajaram Salunke
7. Shivaji Vitthal Wandi

O.A. No.715/88

1. Dnyanoba Pandurang Pawar

O.A. No.716/88

1. Rama Dharma Yelgunde

O.A. No.717/88

1. Vasant Ganpat Kambale

O.A. No. 718/88

1. Jaya Bhagappa Enteman

.. APPLICANTS

V/s.

1. Union of India
through Secretary
Ministry of Defence
New Delhi
2. National Defence Academy
through the Commandant
P.O. N.D.A. Khadakwasla
Pune 411023

.. RESPONDENTS

Coram: Hon'ble Shri Justice U C Srivastava, V.C.
Hon'ble Shri M.Y. Priolkar, Member (A)

APPEARANCES:

Shri Avinash Shivade
Advocate
for the applicants

Shri R K Shetty
Advocate / Counsel
for the respondents

ORAL JUDGMENT

DATED: 1-5-1991

(PER: U.C. Srivastava, Vice Chairman)

While the O.A.Nos. 714/88; 716/88; 717/88 and 718/88 are listed to-day for final hearing O.A. No. 715/88 was taken on board on the request of counsels and the file was called for as the questions are identical.

In all these connected petitions the grievance of the applicants is that they were employed as cadets orderlies, fatigue men etc., in Group-D cadre as temporary employees in the National Defence Academy (N.D.A.) and artificial breaks were given ^{which} and deprived the applicants of the benefits of permanent and continuous service. The applicants have prayed that a Writ of Mandamus, or Writ, Order or Direction in the nature of mandamus directing the respondents to appoint the applicants in any post in Class-III category in the NDA with effect from their dates of first appointment, disregarding the breaks in service and to give them all the benefits such as seniority, increment, etc., from the said dates. As the question involved is identical and common all these cases are taken up together.

The Employment Exchange had sponsored the names of the applicants for short-term vacancies. Thereafter they were appointed. According to the applicants they worked continuously with some break in service. Only for a particular ^{period,} they were not given employment when there was a ban on recruitment. The applicants advocate prayed that the applicants be taken into service as some of the juniors to the applicants have been regularised.

The counsel for the respondents vehemently contended that they were appointed on a short term vacancy and they have no vested right though they were appointed

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again and again. Thus most of those vacancies are obviously for casual labour. The casual labour cannot be treated as commodity by way of appointing and removing as and when required. Some of them have become overaged because of the attitude of the respondents, though some of them are within age and some are entitled to the benefit of age relaxation as they are members of Scheduled Castes and Scheduled Tribes communities.

In view of the fact that they have been given appointment from time to time though their names were sponsored by the Employment Exchange only once, there is no substance in the argument of the respondents that there is no provision for long term vacancy.

Accordingly we direct the respondents to give priority and preference to the applicants in the matter of appointment as and when vacancy arises taking into account their first date of appointment for the purposes of same even if they are overaged provided they were within age at the time of their initial appointment.

All these five applications are disposed of with the above directions with no order as to costs.