

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT OA 347 of 20.9.90

Amar Nath PandeyApplicant(S)

Versus

G.O.Respondent(S)

INDEX SHEET

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7	R.A.	34 to 39
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B-C-File indexed and indexed

Certified that the file is complete in all respects.

.....
Signature of S.O.

11/6/12
Signature of Deal. Hand

15

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

O.A.No. 347/90

Amar Nath Pandey and another Applicants.

versus

Union of India & others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicants were engaged as casual labour in the office Senior Superintendent R.M.S. 'O' Division Lucknow. Applicant No. 1 was engaged in the year 1980 and the applicant No. 2 in the year 1971. In the seniority list of casual labours eligible to appear in Group 'D' the date of engagement of applicants has been mentioned. The applicants have been continuously working as casual labour for more than 10 years. In the meantime Ministry of Home Affairs, Department of Personnel and Training issued a notification dated 7.6.88 regarding the policy of regularisation of casual workers. The applicants even then were not regularised. In addition to this Director General P&T vide letter dated 14.5.89 issued instructions, according to which casual labours were eligible for absorption in class IV posts provided they had been recruited through employment exchange and rendered a minimum of 2 years continuous service. The

applicants' grievance is that even though they fulfill all the requisite qualifications, they have not been regularised but juniors were regularised and the applicants have been made to work as casual workers. They have prayed that the opposite parties may be directed to regularise the applicants from the date of their respective engagement in service as part time casual labours and their seniority after regularisation from the date of their engagement as part time casual labours be given and the opposite parties be directed to make payment to the applicants equal to the pay drawn by their counter part on regular post in accordance with law.

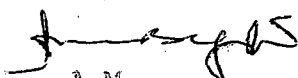
2. The respondents, in the counter have stated that recruitment examination took place on 31.12.88 but the applicants did not pass the written test, and therefore, could not be regularised and that no recruitment to regular Group 'D' posts has been made from the open market if suitable casual/part time casual labours are available.


3. Thus, according to the respondents the applicants could not be regularised, though they were working for 10 years or for more than 10 years and could not succeed but others succeeded. Now, the policy of the Government is that cases of such persons should have been considered twice in a year. Accordingly,

u

the respondents are directed to give 2 more opportunities to the applicants within a period of one year and after that, if they succeed, they may be regularised.

With the above observations, the application is disposed of with no order as to costs.


A.M.


V.C.

Shakeel/

Lucknow:Dated: 16.4.92.

A1

24/10/90

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 347 of 1989 90 (2)

f. M. K. K. K.
24/10

APPLICANT(S) Shri Amar Nath Pandey & others

RESPONDENT(S) V.C.I. & others

Particulars to be examined

Endorsement as to result of examination

- application*
1. Is the ~~appeal~~ competent ? *yes*
 2. a) Is the application in the prescribed form ? *NO*
b) Is the application in paper book form ? *yes*
c) Have six complete sets of the application been filed ? *application No*
 3. a) Is the ~~appeal~~ in time ? *yes*
b) If not, by how many days it is beyond time ? *7*
c) Has sufficient case for not making the application in time, been filed ? *yes*
 4. Has the document of authorisation/ Vakalatnama been filed ? *yes*
 5. Is the application accompanied by B.D./Postal Order for Rs.50/- *yes Postal Order 50/-*
 6. Has the certified copy/copies of the order(s) against which the application is made been filed ? *yes*
 7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? *yes*
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? *yes*
c) Are the documents referred to in (a) above neatly typed in double space ? *yes one page An is en b*
 8. Has the index of documents been filed and paging done properly ? *yes*
 9. Have the chronological details of representation made and the out come of such representation been indicated in the application ? *yes*
 10. Is the matter ~~raised~~ in the application pending before any court of Law or any other Bench of Tribunal ? *No*

82

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed?
12. Are extra copies of the application with Annexures filed?
 - a) Identical with the Original?
 - b) Defective?
 - c) Wanting in Annexures
Nos. _____ pages Nos _____?
13. Have the file size envelopes bearing full addresses of the respondents been filed?
14. Are the given address the registered address?
15. Do the names of the parties stated in the copies tally with those indicated in the application?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true?
17. Are the facts of the case mentioned in item no. 6 of the application?
 - a) Concise?
 - b) Under distinct heads?
 - c) Numbered consecutively?
 - d) Typed in double space on one side of the paper?
 - e) the particulars for interim or prayed for indicated with nos?
18. Are all the remedies have exhausted.

two set

yes

yes

This application is not in the file cover

N.A.

yes

yes

N.A.

How No y

yes

No

No

not available

This application is not with file cover.

Hemish Banna

10 24/10/90

24/10

19/11/90

347/90(C)

Hon. Mr. Justice K. Prasad, re.
Hon. Mr. M. M. Singh, Am.

The learned counsel for the applicant is present. Mr. Atmish Chandra accepts notice on behalf of respondents. Before any progress is made in the case, we would like to see how the claims of the two applicants indicated in 1971 and 1980 can be joined in the same petition. The applicants have also not indicated whether persons junior to them in the seniority list, Annexure-A1 have been regularized. The circular, Annexure-A2 speaks of some pre-existing instructions which were expected to be followed for the purposes of regularization; these pre-existing instructions have not been placed before us. The application requires suitable amendment. List for admission ^{and} orders on 10/12/90 with amendment application, if any.

M. M. L.
Am.

Jr
VC

OR

Uc for the applicant
has not complied the
court's order dt 19.11.90
for join.
S. P. A.

10/12/90

Hon. Mr. Justice K. Prasad, re.
Hon. Mr. K. Obayya, Am.

The learned counsel for the applicant requests for and is allowed two weeks time to apply for amendment. List for admission on 7/1/91.

Am.

VC

VC

OR

MP 744/90 (C) filed
17/12
by the Uc for the applicant
for amendment.
S. P. A.

(M)

O.A. 347/90

5.8.91

D.R.

Shri Shailesh Kumar

C/A is present.

Respondent to file

counter in this

case by 14/10/91.

✓
cr filed

14.10.91

D.R.

Both the parties

are present. Applicant

to file Rejoinder by

14/11/91.

14.11.91

D.R.

Applicant is present.

He has filed Rejoinder

today. Hence, this

case is to be listed

for final hearing

before the Hon.

Bench on 17.1.92.

on
CA, RA have been exchanged
case is ready for final
hearing
SPH

15.4

17.1.92

No Siding of D.R. off.

to 13.3.92 &

13.3.92

No Siding of D.R. off to

16.4.92 &

AO

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH AT

LUCKNOW.

O.A. No. 347 OF 1990(L)

Amar Nath Pandey

and others, _____ Applicants.

Versus

Union of India

And others, _____ Opposite Parties.

COMPILATION A.

Sl.No.	Description of documents.	Page No.
1	Application U/819 of C.A. T. Act 1985.	1107
2	Impugned order.	

अमर नाथ पांडेय

Lucknow

Dated. 23.8.90


Applicants.

For Use of Tribunal's office.

Date of filing. _____
Or

Date of receipt by post.

Registration No. _____

Signature of Registrar.

अनमर नाथ पाण्डेय ।



BEFORE THE CENTRAL ADMINISTRATION TRIBUNAL/CIRCUIT BENCH AT
LUCKNOW.

O.A. No. 347 OF 1990 (L).

1. Amar Nath Pandey aged about 33 years s/o Sri Ram Yagya Pandey R/O. C/O. Sri Durga Prasad Khare 554 Kha/ 124, Kuryana Alambagh, Lucknow.
2. Chandra Bhushan aged about years S/O Sri Navrang Bb Bihari R/O. House No. 3 Haider Canal Colony Latouche Road, Lucknow.

Applicants.

Versus

1. Union of India Through it's Secretary Govt. Of India New Delhi.
2. Chief Post Master General Uttar Pradesh Lucknow.
3. Senior Superintendent R. M. S. 'D' Division Lucknow.

Opposite Parties.

1- Details of Application.

(1) Particulars of the order against which the application is made;

There is no order since the matter is pertaining to regularisation of the services of the applicants on Group 'D' postt even working on the said post for the last 10 years and more and consequence seniority on the said post.

2- Jurisdiction of the Tribunal:

The applicants declares that the subject matter of the case against which they want redressal is within the jurisdiction of the Tribunal.

3- Limitations:

The applicants further declares that the application is within the limitation prescribed in Section 21-(3) of the Administrative Tribunal Act 1985.

Filed today
24/10/90

Noted for
19/11/90

अमर नाथ पांडेय

पुष्प

(2)

4. Facts of the cases

(1) That the applicants were engaged as casual labour in the office of Senior Superintendent R. M. S. 'D' Division Lucknow and they were discharging therein their duties for regular nature of work against the regular post in office of opp. No. 3.

(2) That a requisition were sent to the Employment Exchange Lucknow for sponsoring candidates for the posts of casual workers in the office of Senior Supdt. R. M. S. 'D' Division Lucknow.

(3) That the employment exchange of lucknow sent a list of candidates in which the names of the applicants were also included for appointment as parttime casual labour.

(4) That the applicants were selected by the department for employment as part time casual workers.

(5) That the dates of engagement on the said posts are as under:

(i) Amar Nath Pandey 31-1-1980.

(ii) Chandra Bhushan 27-1-1971.

(6) That the seniority list of casual labours of R. M. S. 'D' Division who were eligible to appear in Group 'D' Recruitment Examination held on 31-12-1988 was issued

by Senior Superintendent R. M. S. 'D' Division in which

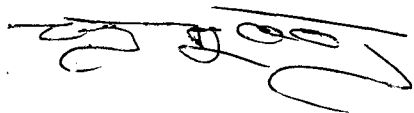
the date of engagement of the applicants have been indicated. The said seniority list is being filed as an Annexure No.-1 to this petition. It may however be observed that though the aforesaid seniority list has been issued, the services were not regularised.

(7) That in the said seniority list the names of the applicants are indicated at Sl. Nos. 50, 14, respectively.

(8) That the applicants have been working as casual labour continuously for about ten years or more.

contd.-3-

अनगर माध ५१६५५



(3)

- (9) That the applicants are hard worker, Honesty and sincerity had always been appreciated by their superiors.
- (10) That during the course of their employment no adverse remark had ever been given to them.
- (11) That the Ministry of Home Affairs the Department of Personnel and Training's Vide their letter Dated O.M. No. 49014/2/86-Estt. (C) dated the 7th June, 1988 communicated a policy with regard to recruitment & regularisation of casual workers and persons on daily wages. *A copy of the same is Annexed herewith as Annexure No 2.*
- (12) That in the said office memorandum dated 7th June, 1988 the following policy decisions were to be strictly followed by all the Administrative Ministries/ Departments. Relevant extract of the same is reproduced below.
- " All the Administrative Ministries/ Departments should undertake a review of appointment of casual workers in the offices under their control on a time-bound basis so that at the end of the prescribed period the following targets are achieved.
- (a) All eligible casual workers are adjusted against regular posts to the extent such regular posts are justified.
- (b) The rest of the casual workers not covered by (a) above and whose retention is considered absolutely necessary and is in accordance with the guidelines are paid emoluments strictly in accordance with the guidelines.
- (c) The remaining casual workers not covered by (a) and (b) above are discharged from service.
- (13) That a time limit of one year was fixed under the above memorandum with regard to Department of posts Department of Telecommunications within which the decision with regard to their absorption on regular post/ discharge from service should be completed.

A13

* 4-(18)A-That as regards the absorption

of part-time casual labourers (Mazdoors) to regular establishment instructions had already been issued by the Directorate Postal and Telegraph Department under the head of absorption of casual labourers. A true copy of the letter No. 260/142/75-STB/dt. 22-2-76 from D.G. P&T in which various letters issued from time to time regarding the regularisation are mentioned is annexed herewith as Annexure No. 4-b the application.

* A(18)B-That the following persons who are

joined to applicant No. 2 have been regularised in Group 'D'.

1. Subendra Kumar Swastara
2. Vinod Chandra
3. Ramesh Kumar Tewari
4. Pawan Singh
5. Shyam Sunder Mishra
6. Kumar Bihad Singh
7. Ramesh Kumar Awasthi
8. Rajesh Chandra Tewari
9. Pawan Kumar

Annexed as per order dated 7-1-1991.

S. Kumar
14/1/91.

(4)

That as the applicants were not discharge from services within period of one year as prescribed in the above memorandum, it was the responsibility of the opposite parties to regularised the applicants on regular posts.

That a number of regular vacancies in Group 'D' had occurred but the applicants were not regularised on such posts in utter disregard of the directions from the Ministry of Home Affairs.

That in addition to the memorandum issued by Ministry Of Home referred supra instructions were issued under Director General P&T letter No. 204/22/69-STB/dated 14-5-1989 according to which casual labourers were eligible for absorption in class IV posts provided they had been recruited through employment exchange and rendered a minimum of 2 years continuous service (at least 240 days of service during each of two years).

That the above instructions with regard to the absorption of casual labour in regular class IV posts were also applicable to part time casual labour provided they had acquired experience of minimum of 4 years continuous service as part time casual labour.

(18) That with regard to making recruitment to regular class

* IV posts it was made clear by Director General P&T vide letter No. 269/34/64-STB 1 dated 15-9-1964. That recruitment to regular establishment from outsiders may not be made till eligible casual labour/Mazdoor and part-time casual labourers who are otherwise suitable are available.

(19) That the opposite parties had assured the applicants that their cases for regularisation was under consideration of the Department and very shortly the order for regularisation will be issued.

1714

(5)

(20) That inspite of repeated oral and written request/ representations the opp. parties have not regularised the applicants services in spite of the facts that they have continuously been working as part time casual labour for more than 10 years.

(21) That the nature of work of the applicants is the same as that of the regular workers but they are not paid the same salary/emoluments which are being paid to regular employees doing the same type of work. The applicants are thereby deprived of their due emoluments based on the principles of equal wages for equal work.

5- Grounds for relief with legal provisions:-

(i) Because the applicants are entitled for absorption on regular permanent ~~post~~ post of Group 'D' in terms of the policy decisions of the Ministry of Home Affairs and the instructions issued by the Director General P&T on the subject from time to time.

(ii) Because the post on which the applicants are working still exists and the nature of vacancy is permanent.

(iii) Because the applicants have continuously been working as part time casual workers since the date of their engagement for more than ten years.

(iv) Because the work and conduct of the applicants always been good and no adverse remark had ever been given by their superiors.

(v) Because the applicants possess the requisite qualification/ experience for Group 'D' post.

(vi) Because the seniority list was issued but the applicants were not regularised.

6- Details of Remedies Exhausted:

That the applicants had been ~~presenting~~ representing their cases for regularisation to the higher authority Vide the representations dated 18-3-1989, 12-5-1989 followed by the reminders dated 1-5-1989, 12-6-1989. Copies of

(6)

earlier representations are however not available with the applicants. A true copies of the representations ^{dated 8-5-90} are being annexed herewith as an Annexure No. 3

7- Matter not previously filed or pending with any other courts:-

The matter of regularisation was ~~not~~ not filed in any other court of law which are pending.

8- Reliefs Sought:-

In view of the facts mentioned in para 4 above the applicants pray for the following reliefs:-

(i) This Hon'ble Tribunal may be pleased to direct the opp. parties to issue order of regularisation of the applicants from the date of their respective engagement in service as a part time casual labours.

(ii) That their seniority after regularisation from the date of their engagement as a part time casual labours.

(iii) That the opp. parties be directed to make payment to the applicants equal to the pay drawn by their counter part on regular post in accordance with the principles of equal pay for equal work.

9- Prayer for interim relief:-

No prayer is made.

10- The application is personally presented through counsel.

11- Particulars of Postal order filed in respect of the application fees:-

(10)

(i) Number of Postal order 02 - 415934

(ii) Name of the issuing Post office High Court Bench

Post office unknown

(iii) Date of issuing of postal order 23rd Oct 1990

(iv) Post Office at which payable Allahabad

12- List of Enclosures:

1-

2-

3-

संगत निकाय पालिका

संगत निकाय पालिका

A16

(7)

4

5

6

7

8

VERIFICATION

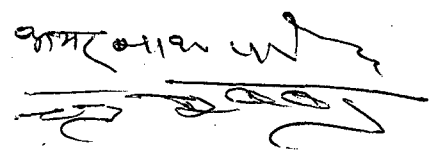
We, applicants named above working as a part time casual
labours in the office of R.M.S. Co.
Division - Lucknow

do hereby verify that the contents of paras 4(1) to 4(10), 4(17), 4(18)
(19), (20) & 21 to our personal knowledge and paras 4(1), (2), (6) to be

believed to be true on legal advice and that we have not
suppressed any material fact.

Date:

Place:



Signature of the applicants

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH AT

LUCKNOW

O.A. No.

of 1990(L)

Amar Nath Pandey

and others.

-----Applicants.

VERSUS

Union of India

and others.

-----Opposite Parties.

COMPILATION B

Annexures.

Page No.

- | | | | |
|----|------------|-------------------|-------|
| 1- | Annexure 1 | Seniority List | 10-10 |
| 2- | Annexure 2 | - Copy of Dept. | 11-13 |
| 3- | | of Personnel as | |
| 4- | | training's P.M. | |
| | | Dated 7 June 1988 | |
| 5- | Annexure 3 | Representation | 14-15 |
| 6- | | dt 8-5-90 | |
| 7- | | | |
| 8- | | | |

Lucknow

Dated: 23.8.90

[Signature]

Signature of applicants.

The Registrar C.A. T Lucknow.

ANNEXURE-1

Seniority List of Casual Labourers of FMS 'D' Divn. who are going to be appear in Group-D Recet Examination held on 31-12-1988.

SL.No.	Name of Casual Labour & Office where attached.	Community	Date of birth	Date of engagement.	Remarks.
1	2	3	4	5	6
1.	Shri Azad Ali, HRO LKO	OC	01-07-54	30-06-75	
2.	Shri Surendra Kumar x Srivastava, HRO LKO	OC	02-05-57	01-03-77	
3.	Shri Gajraj Singh, HRO LKO	OC	02-11-56	06-11-78	
4.	Shri Vindesh Chaubey x HRO LKO	OC	25-01-59	16-11-78	
5.	Shri Ramesh Kumar y Tiwari, HRO LKO	OC	21-03-54	18-11-78	
6.	Shri Ram Chandra, HRO LKO	OC	20-11-80	21-11-78	
7.	Shri Paras Nath, HRO LKO x	OC	01-09-57	21-12-78	
8.	Shri Shyam Sunder x Kushwaha, HRO LKO	OC	11-07-58	03-01-79	
9.	Shri Kunwar Bahadur x Singh HRO LKO	OC	15-11-54	12-01-79	
10.	Shri Ramesh Kumar y Awasthi, HRO LKO	OC	05-10-56	07-02-79	
11.	Shri Rajesh Chandra y Tiwari, HRO LKO	OC	10-01-59	01-03-79	
12.	Shri Bindra Prasad, PT Cl., HRO LKO	OC	15-07-43	25-02-71	
13.	Shri Parasu Ram, HRO LKO	OC	06-12-53	09-05-79	
14.	Shri Chandra Bhushan PT. CL. HRO LKO	OC	20-11-53	27-10-71.	
15.	Shri Suresh Chandra Savita, HRO LKO	OC	10-07-61	11-07-79	
16.	Shri Jagannath, SRO Sultanpur	OC	17-04-61	04-02-80	
17.	Shri Ram Ashrey, TMO Shahganj	OC	15-02-60	27-02-80	
18.	Shri Ram Hit, PT Cl.	OC	31-05-54	01-01-75	
19.	Shri Pradymn, Kumar SRO Jaunpur	SC	05-06-62	29-06-81	
20.	Shri Raj Kumar PT. W. man, SRO Faizabad	OC	01-02-58	09-09-76	
21.	Shri Rama Nand, PT. CL. SRO Barabanki	OC	05-11-58	06-11-76	
22.	Shri Baldeo Singh SRO Faizabad.	OC	01-07-57	04-03-82	

अनुसूचित जाति

Signature of Head
22/1/91

Jointed ...2/-

(1)	(2)	(3)	(4)	(5)	(6)
51.	Shri Yagesh Kumar Singh	OC	01-04-63	18-06-83	
52.	Shri Vinod Kumar Verma SRO Barabanki	OC	07-01-65	18-06-83	
53.	Shri Ram Tej Dubey, SRO Fzd.	OC	12-01-59	18-11-83	
54.	Shri Chandra Bhanu, SRO Fzd.	OC	12-12-59	18-11-83	
55.	Shri Ram Achal, SRO Fzd.	SC	14-12-56	21-11-83	
56.	Shri Rajendra Pd, SRO JNP	BSC	05-03-62	22-11-83	
57.	Shri Raj Bali, SRO Fzd.	SC	20-12-57	23-11-83	
58.	Shri Suresh Yadav, SRO JNP	OC	04-04-65	25-11-83.	
59.	Shri Siya Ram, SRO Sul.	OC	01-01-59	01-12-83	
60.	Shri Jeetendra Kumar Verma HRO Lucknow	OC	18-04-61	07-12-83	
61.	Shri Hrishikesh Misra HRO Lucknow	OC	25-07-62	07-12-83	
62.	Shri Krishna Kumar Singh HRO Lucknow	OC	03-04-63	07-12-83	
63.	Shri Deena Nath, HRO LKO	OC	01-06-63	07-12-83	
64.	Shri Siya Ram, HRO LKO	OC	01-05-65	07-12-83	
65.	Shri Babu Lal-III, HRO LKO	SC	21-01-58	08-12-83	
66.	Shri Kashi Pd, HRO LKO	OC	21-11-59	08-12-83	
67.	Shri Dinesh Kumar Misra HRO Lucknow	OC	15-07-61	08-12-83	
68.	Shri Sheo Pal, HRO LKO	SC	20-07-58	13-12-83	
69.	Shri Roop Narain Pandey HRO Lucknow	OC	03-01-64	14-12-83	
70.	Shri Nageshwar Shukla, HRO LKO	OC	10-01-65	15-12-83	
71.	Shri Ram Deo, HRO LKO	SC	07-08-59	17-12-83	
72.	Shri Udai Raj Misra, HRO LKO	OC	18-01-59	21-12-83	
73.	Shri Dwarika Pd. Shukla SRO Sultanpur	OC	01-08-60	08-02-84	
74.	Shri Mahesh Kumar Srivastava SRO Sultanpur	OC	06-12-62	10-02-84	
75.	Shri Ram Kalap, SRO Sultanpur	OC	01-01-60	14-12-84	
76.	Shri Ram Chandra Yadav, Pt. Mali, HRO LKO	OC	10-01-65	07-08-82	
77.	Shri Mohd. Hasan, HRO LKO	OC	04-03-63	24-10-86.	
78.	Shri Mahesh Chandra-II HRO LKO	SC	10-08-66	24-10-86	

Senior Superintendent
R.M.S. (O) Divn. Lucknow

अतः अग्रे, मन्त्र

Signature
27/12/80

ANNEXURE 'A'2

Copy of Department of Personnel and Training's O.M.
No.49014/2/86-Estt(C), dated the 7th June, 1988.

Subject:-Recruitment of casual workers and persons
on Daily wages - Review of policy.

The policy regarding engagement of casual workers in Central Government Offices, has been reviewed by Government keeping in view the judgement of the Supreme Court delivered on the 17th January, 1986 in the Writ Petition filed by Shri Subinder Singh and others Vs. Union of India and it has been decided to lay down the following guidelines in the matter of recruitment of Casual workers on daily wage basis :-

- (i) Persons on daily wages should not be recruited for work of regular nature.
- (ii) Recruitment of daily wagers may be made only for work which is of casual or seasonal or intermittent nature or for work which is not of full time nature, for which regular posts cannot be created.
- (iii) The work presently being done by regular staff should be reassessed by the administrative Departments concerned for output and productivity so that the work being done by the casual workers could be entrusted to the regular employees. The Departments may also review the norms of staff for regular work and take steps to get them revised, if considered necessary.
- (iv) Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day.
- (v) In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worker may be paid only the minimum wages notified by the Ministry of Labour or the State Government/ Union Territory Administration, whichever is higher, as per the Minimum Wages Act, 1948. However, if a Department is already paying daily wages at a higher rate, the practice could be continued with the approval of its Financial Officer.

Signature attested
[Signature]
25/6/90

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- (vi) The casual workers may be given one paid weekly 'off' after six days' of continuous work.
- (vii) The payment to the casual workers may be restricted only to the days on which they actually perform duty under the Government with a paid weekly 'off' as mentioned at (vi) above. They will, however, in addition, be paid for a National Holiday, if it falls on a working day for the casual workers.
- (viii) In cases where it is not possible to entrust all the items of work now being handled by the casual workers to the existing regular staff, additional regular posts may be created to the barest minimum necessary, with the concurrence of the Ministry of Finance.
- (ix) Where work of more than one type is to be performed throughout the year but each type of work does not justify a separate regular employee, a multifunctional post may be created for handling those items of work with the concurrence of the Ministry of Finance.
- (x) The regularisation of the services of the casual workers will continue to be governed by the instructions issued by this Department in this regard. While considering such regularisation, a casual worker may be given relaxation in the upper age limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age limit for the relevant post.
- (xi) If a Department wants to make any departure from the above guidelines, it should obtain the prior concurrence of the Ministry of Finance and the Department of Personnel and Training.

All the administrative Ministries/Departments should undertake a review of appointment of casual workers in the offices under their control on a time-bound basis so that at the end of the prescribed period, the following targets are achieved :

- (a) All eligible casual workers are adjusted against regular posts to the extent such regular posts are justified.

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Signature attached
Amul
28/2/90

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(10)

- (b) The rest of the casual workers not covered by (a) above and whose retention is considered absolutely necessary and is in accordance with the guidelines, are paid emoluments strictly in accordance with the guidelines.
- (c) The remaining casual workers not covered by (a) and (b) above are discharged from service.

2. The following time limit for completing the review has been prescribed in respect of the various Ministries/Departments :-

- (a) Ministry of Railways .. 2 years
- (b) Department of Posts, Department of Telecommunications and Department of Defence Production. .. 1 year
- (c) All other Ministries/Departments/Offices. .. 6 months.

Each Ministry should furnish a quarterly statement indicating the progress of the review in respect of the Ministry (proper) and all Attached/Subordinate offices under them to the Department of Personnel and Training in the proforma attached. The first quarterly return should be furnished to this Department by the 10th October, 1983.

3. By strict and meticulous observance of the guidelines by all Ministries/Departments, it should be ensured that there is no more engagement of casual workers for attending to work of regular nature, particularly after the review envisaged above is duly completed. Each Head of Office should also nominate an officer who would scrutinise the engagement of each and every casual worker and the job for which he is being employed to determine whether the work is of casual nature or not.

Ministry of Finance etc. are requested to bring the contents of this Office Memorandum to the notice of all the appointing authorities under their respective administrative control for strict observance. Cases of negligence in the matter of implementing these guidelines should be viewed seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters.

Signature attested
J. K. Khanna
28/12/90

आमल नम्र ५१०५५

१/१५

To,

Annexure 3

The Director Postal Services,
Lucknow Region,
LUCKNOW.

Through: Proper Channel (H.R.O., RMS 'D' Div. Lucknow).

Subject: Representation against wrong fixation of seniority of the Part Time Casual Labours in the seniority list prepared by SSRM 'D' Division, Lucknow for Group-D recruitment Examination held on 31.12.1988.

Respected Sir,

We the below signed part-time casual labours of RMS 'D' Division, Lucknow and serving the Department for the last 10 years beg to represent against the decision of Sr. Supdt., RMS, 'D' Division, Lucknow as communicated to us vide his letter no. B-1/14C/PT/II/90 dated 1.4.1990 addressed to HRO, RMS 'D' Division, Lucknow (copy enclosed for ready reference).

The issue represented to SSRM 'D' Division, Lucknow vide our representation dated 18.3.89 followed by reminders dated 1.5.89, 12.6.89, 1.8.89, 12.9.89, 21.12.89 and 26.2.90 relate to delayed implementation of the orders contained in ADG (SPN) & the D.G., P&R, New Delhi Comm. No. 45/20/73-SPB-I dated 20.10.84 (copy enclosed for ready reference). The said orders of the DG has a clear mention that effect thereof was to be given with effect from the date of issue of the said order i.e. 20.10.84 and the seniority list so prepared will be applicable to all recruitments initiated or to be initiated after that date. This issue was further clarified by the PMG U.P. Circle, Lucknow vide his office letter no. Rectt/R-39/D.I.1/85/5 dated 6.5.85 (copy enclosed for ready reference). The contention of the SSRM 'D' Division, Lucknow desired at and communicated to us confirm a different view and has intends to prepare a seniority list again and again at the time of each recruitment examination to be held after the date of issue of the above mentioned order i.e. 20.10.84.

Contd..

कायम निदेशक हाक सेवा

संलग्नक क्षेत्र, लखनऊ
226007

Signature allowed
20/12/90

(2)

We, therefore, earnestly request you kindly to review the decision of the SSRM 'O' Division, Lucknow within the perview of the orders mentioned above and apprise us of your worthy decision at an early date. It may be added that a number of vacancies in Group D Cadre are lying vacant in the unit of HRO RMS 'O' Division, Lucknow but no action is being taken since after December, 1988 for regularisation of full time/part time casual labours in regular Group-D Cadre inspite of the fact that such regularisation does not come within the perview of the ban orders etc. on recruitment.

With high regards,

Yours faithfully,

1. (*अमर नथ पांडेय*)
(Amar Nath Pandey)
2. (*बिन्दा प्रसाद*)
(Binda Prasad)
3. (*कालिका प्रसाद*)
(Kalika Prasad)
4. (*राम हित*)
(Ram Hit)
5. (*डॉ. प्रकाश पांडेय*)
(Dr. Prakash Pandey)
6. (*चंद्रा भुषण*)
(Chandra Bhushan)

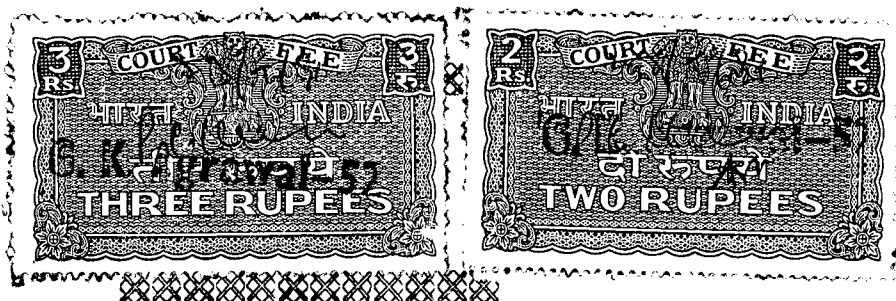
Advance copy sent Direct.

अमर नथ पांडेय

*Signature also in
Hand
Amr
27/1/89*

27

ब अदालत श्रीमान Before the Central Administrative Tribunal
(बादो अपीलान्ट) Circuit Bench Lucknow महोदय
प्रतिवादी [रेस्पॉण्डेंट] श्री का वकालतनामा



Amar Nath Sahu

बनाम Union of India & Lk (प्रतिवादी रेस्पॉण्डेंट)

नं० मुकद्दमा सन् पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री P. C. Khare Adm

व Pradeep Singh, Shaish Kumar वकील
Adm Adm महोदय
25 Shankar Nagar एडवोकेट
Moolala Nagar.

नाम अदालत
मुकद्दमा नं०
नाम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटाव या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होया मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

अमर नाथ पांडेय

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक: १३ महीना १० सन् १९९० ई०

स्वीकृत

Accepted

Sharma

Accepted
J. K. Khare

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,

CIRCUIT BENCH, LUCKNOW.

MISC.APPLICATION NO. 439 OF 1991. (2)

On behalf Respondents.

In

Case No.O.A.No.347 of 1990.

Amar Nath Pandey & OthersApplicants.

Versus

Union of India & OthersRespondents.

APPLICATION FOR CONDONATION OF DELAY

The respondents respectfully beg to submit as under :-

1. That the Counter-affidavit on behalf of the respondents could not be filed within the time allotted by the Hon'ble Tribunal on account of the fact that after receipt of the parawise comments from the respondents, the draft reply was sent to the department for vetting.
2. That the approved Counter-affidavit has been received and is being filed without any further loss of time.
3. That the delay in filing the Counter-affidavit is bonafide and not deliberate and is liable to be condoned.

WHEREFORE, it is prayed that the delay in filing the Counter-affidavit may be condoned and the same may be brought on record for which the respondents shall ever remain grateful as in duty bound.

Lucknow.

Dated; 29-7-91,

(Dr. Dinesh Chandra)

Counsel for the Respondents.

Filed today
2/8/91

A27

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,
CIRCUIT BENCH, LUCKNOW.

COUNTER-AFFIDAVIT ON BEHALF OF RESPONDENTS.

In

O.A.No.347 of 1990

Amar Nath Pandey & Others.....Applicants.

Versus

Union of India & Others..... Respondents.

I,.....R.K. Rastogi.....aged about
..50.....years, son of Late Shri B.D. Rastogi.....

Senior Superintendent, R.M.S.'O' Division, Lucknow do
hereby solemnly affirm and state as under :-

1. That the deponent has read the application filed by Shri Amar Nath Pandey and others and has understood the contents thereof.
2. That the deponent is well conversant with the facts of the case deposed hereinafter and is filing this Counter-Affidavit on behalf of Respondents No.1 and 2 also.
3. That the contents of paras 1 to 3 of the application need no comments.

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4. That in reply to para 4(1), it is stated that the applicants were engaged as part time casual labour for doing work of casual nature. They were neither engaged against any regular posts nor they were deployed for doing work of regular nature.

5. That the contents of paras 4(2) to 4(4) are admitted.

6. That in reply to para 4(5), it is stated that the applicant, Shri Amar Nath Pandey was engaged as part time casual labour ^{under} ~~in the office of~~ the Senior Superintendent, R.M.S.'O'Division, Lucknow on 31-1-80 and Shri Chandra Bhushan was engaged on 27-10-71.

7. That in reply to para 4(6), it is admitted that the seniority list filed as Annexure No.1 with the application was issued by the Senior Superintendent, R.M.S.'O' division, Lucknow. But the said seniority list contained the names of casual labour who were going to appear in Group "D" Recruitment Examination held on 31-12-1988. Seperate seniority list is issued at the time of each Recruitment Examination for Group "D" posts as the seniority of the casual labour keeps changing as new candidates who are eligible for the test are brought in and the names of the candidates who had been appointed on Group "D" posts as a result of previous examination ^{are deleted} ~~declared~~.

These seniority list are not prepared for the purpose

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A21

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of regularisation of casual labour on Group "D" posts.

8. That the contents of paras 4(7) to 4(10) are admitted.

9. That the contents of paras 4(11) and 4(12) need no comments.

10. That the contents of para 4(13) need no comments.

11. That in reply to para 4(14), it is stated that the applicants were not discharged as their retention as casual labours was considered necessary but they could not be regularised on Group "D" posts as they did not fulfil the conditions for regularisation. Appointment to Group "D" vacancies is done as per recruitment rules.

12. That in reply to para 4(15), it is stated that the applicants had appeared in the test for absorption in Group "D" posts but they did not pass the written test and, therefore, they could not be regularised on the same.

13. That no comments can be furnished on the contents of para 4(16) as the letter No.284/22/89.STB dt.14-5-1989 issued by the Director General Post & Telegraphs referred to in the answering paragraph is not readily available and the applicants have not filed a copy of the same.

14. That the contents of para 4(17) need no comments.

15. That in reply to para 4(18), it is stated that no recruitment to regular Group "D" posts has been made from

the open market if suitable casual/part time casual

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labours are available.

16. That the contents of para 4 (18-A) need no comments.

17. That in reply to para 4 (18-B), it is admitted that ~~the~~ casual labourers from serial No. 2⁴ to 5, 7 to 11 and 13 of the Seniority List which has been filed by the applicants as Annexure 7 have been regularised in Group "D" posts but all of them stand senior to the applicants in the Seniority List. The applicants name is at serial No. 14 and 50 in the seniority list. It is further submitted that seniority in service is not the only consideration for regularisation. A casual labour is also required to qualify in the literacy test.

18. That the contents of para 4 (19) are denied. No assurance was given to the applicants that their regularisation is under consideration of the department. However, the appointment on Group "D" vacancies will continue to be governed by the Recruitment rules.

19. That in reply to para 4 (20), it is stated that the services of the applicants will be regularised in accordance with the provisions of Recruitment Rules for

 Group "D" posts.

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20. That in reply to para 4 (21), it is stated that the casual labourers on whom Temporary Status has been conferred under the above Scheme will now be paid wages in accordance with the said Scheme.

21. That comments on "Grounds for relief with legal provisions " contained in para 5 of the application are furnished below in seriatum :-

5(i) :- Admitted.

5(ii) :- The applicants are part time casual labours who are deployed to perform add jobs of casual nature. They are not employed on vacant regular Group "D" posts.

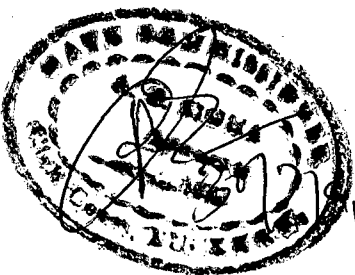
5(iii) :- Admitted.

5(iv) :- Admitted.

5(v) :- The applicants will be regularised/appointed on Group "D" posts in accordance with the Recruitment Rules for Group "D" posts.

5(vi) :- The seniority List referred to in the para is with regard to those Casual Labourers of R.M.S.'0' Division who were going to appear

Contd...6/-



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in Group "D" Recruitment Examination held on 31-12-1988. It was not the Seniority List for the purpose of regularisation of casual labourers on Group "D" posts.

22. That the contents of paras 6 and 7 need no comments.

23. That in view of the submissions made in the above paragraphs the relief sought for in para 8 of the application is not admissible. The application lacks merit and is liable to be dismissed with Costs.

24. That the contents of paras 9 to 12 need no comments.

CMD

Dr. K. R. Singh

Dr. D. Chak

Acc

x

Deponent.

VERIFICATION :-

ABHAY CHANDRA SINGH
JUDGE
CIVIL COURT LUCKNOW

30/7/91

I, the above named deponent do hereby verify that

the contents of paras 1 to 3 of this affidavit are true to my personal knowledge and those of paras 4 to 29 are believed by me to be true based on records and as per legal advice of my counsel. That nothing material facts has been concealed and no part of it is false, so help me God.

Signed and verified this the 30th day of July, 1991

within the court compound at Lucknow.

Lucknow.

x

(Deponent.)

Dated: 30/7/91

I identify the deponent who signed before me.

(Advocate)

अदालत श्रीमान

(बादी अपीलान्ट)

प्रतिवादी [रेस्पाण्डेंट]

महोदय

1735

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श्री ...
Counsel ...
Counsel ...

वकालतनामा

टिकट

वादी (अपीलान्ट)

A. N. Pandey & others vs. ... (प्रतिवादी रेस्पाण्डेंट)

नं० मुकद्दमा ... 347 सन् 1993 पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री ...

व ...
Addl. ...
Zindani
वकील
महोदय
एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम तफरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करे वा लौटावे या हमारी ओर से डिमरी जारी करावे और रुपया बसूल करे या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसोद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरबी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

...

हस्ताक्षर ...
Senior Superintendent

साक्षी (गवाह) ... साक्षी (गवाह) ... 226019

दिनांक ... महोना ... सन् १६ ई०

स्वीकृत

A2M

Before the Central Administrative Tribunal Circuit Bench,
Lucknow

O.A.No.347 of 1990
F.F. 14-11-1991

Amar Nath Pandey and OthersApplicants.

Versus

Union of India and OthersRespondents.

Rejoinder Affidavit on Behalf of Applicants No. 1 &

No.2

I, Amar Nath Pandey aged about 34 years son of Sri Ram Yagya Pandey resident of 554 Kha/124, Kuryana Alambagh, Lucknow do hereby solemnly affirm and state on oath as under :

1. That ~~we~~^{the} deponent named above, is the applicant No.1 and has also been authorised by the applicant No.2 Sri Chandra Bhushan to file and sign the rejoinder affidavit on his behalf.

2. That the deponent has read the contents of the counter affidavit filed by Shri R.K. Rastogi, Senior Superintendent R.M.S. 'O' Division Lucknow and has understood the contents thereof.

3. That the contents of paras 1 to 3 of the counter affidavit need no comments.

4. That ~~in the~~^{with} rejoinder to the contents of para 4 of the counter affidavit it is submitted that the applicants were appointed as part time casual labour and have been working, as such without any interruption for the

Contd.....2

31/11/91 - 14/11/91

Filed today
14/11/91

2.

last 10 to 20 years. They have assumed the status of worker for all purposes. The contents of para 4(1) of the application are reiterated.

5. That the contents of paras 5 of the counter affidavit need no comments and the contents of para 4(2) to 4(4) of the application are reiterated.
6. That with rejoinder to the contents of para 6 of the counter affidavit it is submitted that by typing mistake the month of engagement of applicant No.2 Shri Chandra Bhushan has wrongly been mentioned the correct date of appointment of the applicant No.1 is 31-1-1980, and applicant No.2 is ~~27~~²-10-1971.
7. That with reference to the contents of para 7 of the counter affidavit it is submitted that there is no provision for a test for regularisation. The regularisation is claimed on the basis of the fact that the petitioners have been working as casual labour for the last 10 to 20 years without being regularised on Group 'D' posts. The contents of para 4(6) of the application are reiterated.
8. That the contents of para 8, 9, and 10 of the counter affidavit need no comments and the contents of para 4(7) to 4(13) of the application are reiterated.
9. That with rejoinder to the contents of para 11 of the counter affidavit it is submitted that the applicants are fully covered by the conditions of the recruitment rules for regularisation as per direction issued by the department of Personnel and Trainings O.M. No:49014/2/86 Estt(c) dated 7th June, 1988 contained in an (Annexure 2).

Contd....3

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3.

to the application and also in terms of directions issued by the Directorate Post & Telegraph Department regarding absorption of part time casual labour contained in an (Annexure 4) to the application. The contents of para 4(14) of the application are reiterated.

10. That with rejoinder to the contents of para 12 of the counter affidavit, it is submitted that no written test is prescribed for the regularisation of part time casual labour. The absorption/regularisation in Group 'D' posts should be in accordance with the seniority ~~list~~ Annexure-1 to the application. The contents of para 4(15) of the application are reiterated.
11. That with reference to the contents of para 13 of the counter affidavit it is submitted that the letter referred to in para 4(16) has been issued by the department of the respondents and should be available with them. The contents of para 4(16) of the application are reiterated.
12. That the contents of para 14 of the counter affidavit need no comments and the contents of para 4(17) of the application are reiterated.
13. That the contents of para 15 of the counter affidavit are denied and the contents of para 4(18) of the application are reiterated as correct.
14. That the contents of para 16 of the counter affidavit need no comments and the contents of para 4(18-A) of the application are reiterated.
15. That with regard to the contents of para 17 of the counter affidavit it is submitted that the casual labourers from serial No.2 to 5, 7 to 11 and 13 of the seniority list (Annexure No. ~~1~~ 4 to the application) have been regularised

Contd....4

A37

4.

in Group 'D' Posts though all of them are senior to the applicant No.1 but all of them are junior to the applicant No.2. It is vehemently denied that seniority is not the only consideration for regularisation of a casual labour. As a matter of fact seniority is the only consideration for regularisation. It is admitted by the app.parties in their statement that casual labourers at serial No. 2 to 5, 7 to 11 and 13 were regularised as they were senior to the applicants Accordingly the applicants should also be regularised according to the seniority list and the contents of para 4 (18-8) of the application are reiterated.

16. That the contents of para 18 of the counter affidavit are denied and the contents of para 4 (19) of the application are reiterated as correct.
17. That with regard to the contents of para 19 of the counter affidavit it is stated that the services of the applicants should be regularised according to the direction issued by the department of personnel and Trainings O.M.No.49014/2/86-Estt.(c) dated 7th June, 1988 and also from letter No.260/142/75-S.T.B.I dated 20-2-1976 from D.G.P.&T. which are contained in an Annexures 2 & 4 to the application. The contents of para 4(20) of the application are reiterated.
18. That the contents of para 20 of the counter affidavit are not admitted. The contents of para 4 (21) of the application are reiterated.
19. That comments on the contents of para 21 of the counter affidavit are furnished as under :
- 5(i) = need no comments

Contd...5

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5.

5(ii) = the contents of para 5(ii) are reiterated. It is further submitted that the applicants are part time casual labours presently renamed as casual labours and working on the post for the last 10 to 20 years and nature of vacancy is permanent.

5(iii) = Need no comments.

5(iv) = Need no comments.

5(v) = The services of the applicants should be regularised according to the directions issued by the Department of Personnel and Training and letter from D.G. P. & T. (Annexures 2 & 4) to the application and the contents of para 5(v) of the application are reiterated.

5(vi) = That it is also the seniority list for the purposes of regularisation of casual labours on Group 'D' posts and the contents of para 5(vi) of the application are reiterated.

अन्य अर्थ प्रोस्ट

20. That the contents of para 22 of the counter affidavit need no comments. The contents of paras 6 & 7 of the application are reiterated.

21. That the contents of para 23 of the counter affidavit are denied and the contents of para 8 of the application are reiterated.

22. That the contents of para 24 of the counter affidavit need no comments. The contents of paras 9 to 12 of the application are reiterated.

अन्य अर्थ प्रोस्ट

Deponent

Lucknow

Dated: 12-11-91
14

6.

Verification

I, the above named deponent do hereby verify that the contents of paras 1 to 22 of this affidavit are true to my personal knowledge and those of paras x are believed by me to be true based on records and as per legal advise of my counsel that nothing material facts has been concealed and no part of it is false, so help me God.

Signed and Verified this the 12th day of November 1991 within the court compound at Lucknow.

Lucknow
Dated: 12-11-1991
14

जगन्नाथ पांडे
Deponent.

I identify the deponent who has signed before me.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH

LUCKNOW.

M.P. 744/90
MISC. APPLN. No. 90(L)

- 1- Amar Nath Pandey, son of shri Ram Yagya Pandey
r/o ~~424~~ 554Kha/124, Kuryana Alambagh, Lucknow.
- 2- Chandra Bhushan son of shri Navrang Bihari r/o house
No. 3 Haider canal colony Latouche Road, Lucknow.
Applicants.

IN RE:

Amar Nath Pandey and others-----Applicants.

Versus

Union of India and others.-----Opposite Parties.

O. A. No. 347 of 1990(L)

F. F. 7-1-1991.

---APPLICATION FOR AMENDMENT---

The applicants named above beg to submit as under:-

- 1- That the applicants filed an application for the regulariza-
- ion of their services and at the time of admission Hon'bl
Tribunal was pleased to direct the applicants to specify
some pre-existing instructions which were issued by the
Department from time to time.
- 2- That in the circumstances mentioned supra the applicants
may kindly be permitted to amend the above noted application
in the following manner.

A- That after the para '4(18)' of the application,
new para 4(18)A may be permitted to be added.

'4(18)A- That as regards the absorption of part-time casual
labourers (Mazdoors) to regular establishment instructions

अमर नाथ पांडेय

455

Filed today

syd
17/12/90

had already been issued by the Directorate Post and Telegraph Department under the head of absorption of casual labourers. A true copy of the letters No. 260/142/75-STB/ dt. 20-2-76 from D. G. P.&T. in which various letters issued from time to time regarding the regularization are mentioned is annexed herewith as an Annexure No. 4 to the application.

B- That after the para '4(18)' of the application, new para 4(18)B may be permitted to be added.

'4(18)B- That the following persons who are junior to applicant No. 2 have been regularised in Group 'D'.

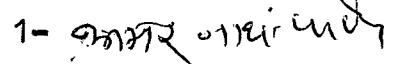
- 1- Surendra Kumar Srivastava.
- 2- Vindesh Chaubey.
- 3- Ramesh Kumar Tewari.
- 4- Paras Nath.
- 5- Shyam Sunder Kushwaha.
- 6- Kunwar Bahadur Singh.
- 7- Ramesh Kumar Awasthi.
- 8- Rajesh Chandra Tewari.
- 9- Parasu Ram

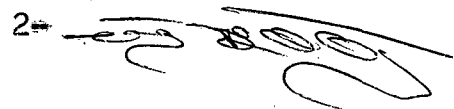
Wherefore, it is most respectfully prayed that this Hon'ble court may be pleased to permit the applicants to amend the application in the manner stated above and may kindly pass such other order which this Hon'ble Court may deem fit and proper in the circumstances of the case.

LUCKNOW.

DATED: 17-12-90

APPLICANTS.

1- 

2- 

VERIFICATION

We, the above named applicants do hereby verify that the contents of paras 1 and 2 of this application are true to their knowledge. No part of it is false. The annexure No. 4 has been compared and nothing material has been concealed.

contd.-3-

Ans

-3-

ed. So help me GOD.

Signed and verified this on 17th day of December,
1990. at the civil court compound Lucknow.

LUCKNOW.

DATED: 17-12-90

APPLICANTS.

1- अमर नाथ पांडेय

2- कृष्ण कुमार

अमर नाथ पांडेय
कृष्ण कुमार

accommodation is offered/allotted to him that he is not interested in Government accommodation, will for the purpose of paragraph 1 above, be deemed not to have submitted the application.

4. These orders will remain in force upto 31st December, 1978 unless revised earlier.

5. This issues with the concurrence of the Ministry of Finance vide their U.O. No. 1406 (W&E)/75 dated 20.2.1976. (R. III/5 (E)/1)

Absorption of casual labourers.

Copy of letter No. 260/142/75-STB I dt. 20-2-76 from D.G. P&T.

Various instructions for absorption of casual mazdoors and part-time casual mazdoors have been issued from time to time by the Directorate. Instances have come to notice that these instructions have not been interpreted correctly and as a result of this they are not being implemented properly. A summary of various relaxation issued so far for absorption of casual mazdoors and part-time casual mazdoors are reproduced below for guidance and necessary action.

According to the instructions contained in this office letter No. 204/22/69-STB I dated 14.5.69, casual mazdoors are eligible for absorption in regular class IV posts provided they have been recruited through employment exchange and rendered a minimum of two years continuous service (at least 240 days of service during each of two years). The casual mazdoors have also been given age concession for absorption vide this office letters No. 204/11/61/STB dated 25-8-61 and 9-10-61 which inter-alia provide that the period spent by casual mazdoors including stretch of 6 months, may be taken into account for the purpose of age concessions granted to casual mazdoors for absorption to regular class IV cadre have been extended to casual mazdoors for their appointment as Linemen also vide this office letter No. 18-25/67-NCG dated 21.1.1974.

As regards the absorption of part-time casual mazdoors to regular establishments, orders have been issued vide this office letter No. 160-25/66-SPB I dated 25.4.69 which inter-alia provide that part-time casual mazdoors are also eligible for absorption to regular establishments if they have acquired experience of a minimum of four years continuous service as part-time casual labour in the office/establishment to which they were appointed through employment exchange.

The condition of nomination from Employment Exchange was reviewed in 1973 and it was decided in consultation with D.G. E&T and orders were issued vide this office letter No. 260-21/68-STB I dated 22-8-73 that casual mazdoors appointed without nomination through Employment Exchanges upto 31-7-73 may be considered for regular establishment and casual mazdoors recruited after 31-7-73 without nomination through employment exchange may be dispensed with. The above concession has also been extended to all part time casual labourers/mazdoors vide this office letter No. 269/105/73-STB I dated 6.4.1974.

While making recruitment to regular class IV establishment, it has been made clear vide this office letter No. 269/34/64-STB I dated 15-9-64 that recruitment to regular establishment from outsiders may not be made till eligible casual labourers/mazdoors and part-time casual labourers who are otherwise suitable, are available as mentioned earlier in para 2, 3 and 4 above. If such casual mazdoors and part-time casual mazdoors, eligible for absorption are not available then only recruitment may be made as per provisions of this office letter No. 45-13/72-SPN I(Pt) dated 29-6-73 which inter-alia provide that the recruitment may be made in the following orders of preference :-

- (a) Boy Peon (now dying cadre),
- (b) Non-Test Category Class IV.
- (c) Extra Departmental Agents.
- (d) Casual Labourers,
- (e) part-time casual labourers.
- (f) Outsiders. Through employment exchanges.

Obviously, the inclusion of not-test category staff as (b) who are already on regular establishment is for consideration to test category. So also the casual labourers and part-time casual labourers mentioned at (d) and (e) above refer to those who are not eligible as per para 2, 3 and 4 above.

However, some instructions were issued vide this office letter No. 45/25/73-SPB I dated 24.6.74 which inter-alia provide that the services of casual labourers who have not initially been recruited through employment exchange and have not completed two years of service on 30.11.73 may be dispensed forthwith and resultant vacancies may be got filled by suitable candidates sponsored by the Employment Exchange. It has, however, been clarified vide our letter No. 269/95/74-STB dated 23.9.74 that these instructions do not supersede our instructions issued vide letter No. 260/21/68-STB I dated 22.8.73 wherein some special relaxation have been given to casual mazdoors in regard to their nomination through employment exchange. In short those casual mazdoors who were employed before 31-7-73 and are continuing thereafter will not be disqualified for consideration on the plea of their not being sponsored by the Employment Exchange. (R III/39 (15))

C.C.S. (RP) Rules, 1973 - Revised Pay Scale of Yard Foreman-in-charge, Yard Foreman, Sign Writer, Packer and Mazdoor in the Store organisation.

Letter No. 1/8/74-PAP (Pt-1) dated 3.4.1976.

I am directed to invite a reference to this office letter No. 1-3/73-PAP dated 7.12.73 forwarding the Notification No. G.S.R. 499 (E) dated 13th November, 1973 of the Government of India, Ministry of Finance (Department of Expenditure) published in the Gazette of India Extra-ordinary No. 273 dated 13th

(744)

Before the Central Administrative Tribunal Circuit

Bench, at Lucknow.

M.P. No. 669/90 (L)

O. A. No. 347 of 1990 (L)

Amar Nath Pandey & others Applicants.

Versus

Union of India & others Opp. parties.

Application for permission to file the application
jointly.

The applicants beg to submit as under :-

1. That the applicants are working as a part time casual workers in the department of R.M.S. and are effected by the Policy of the Government of India regarding the recruitment of casual workers and persons on daily wages (Review of Policy) and regularisation of the casual workers working on as a part time casual worker for the last several years.

It is therefore prayed that this Hon'ble Court Tribunal may kindly be pleased to permit the applicants to file the claim petition jointly.

Lucknow

dated 10.1990.

अमर नाथ 41054
J. Khan
Ad
Counsel for Applicants.

P.T.
OSU
14/11/90

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

Review Application No. 510 of 92

In

O.A. No. 347 of 1990

Amar Nath Pandey

Applicant

versus

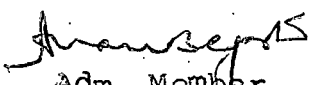
Union of India & others

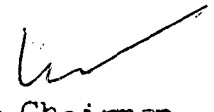
Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

This review application is directed against our judgment and order dated 16.4.92. The case was ~~heard~~ and disposed of upon hearing the counsel for the parties. The scope of review application is limited and a person dissatisfied from a judgment can always approach superior court. We have taken into consideration all the relevant facts including 10 years work and the non participation of applicant in written examination. There is no error of law apparent on the face of the record, as such review application is rejected.


Adm. Member.


Vice Chairman.

Lucknow: Dated: 25/8/92

Shakeel/

In the Hon'ble Central Administrative Tribunal
at Allahabad, Circuit Bench, Lucknow
Misc. (Review) Application No...510... of 1992

8/6/92
[Signature]

- 1- Amar Nath Pandey S/o Sri Ram Yagya Pandey
R/o C/o, Sri Durga Prasad Khare 554 Kha/ 124,
Kuryama Alambagh, Lucknow.
- 2- Chandra Bhushan S/o Sri Navrang Behari R/ of House
No. 3, Haider Canal Colony Latouche Road, Lucknow.

... Applicants

In re

O.A. No. 347/1990

Amar Nath Pandey and another Petitioners

Versus

Union of India & others Respondents

Review application under section 22(3)(f)
of Administrative Tribunal Act, 1985 read
with rule 17 of Central Administrative
Tribunal (Procedure) Rules, 1987.

Filed today

amp

Sir,

8/6/92 submit as under :-

- 1- That as submitted by the applicants in their
petition and it's amendment application the respondents
-engaged applicant no.1 in the year 1980 and applicant
no.2 in the year 1971 as casual labour in the office
of Senior Superintendent R.M.S. 'O' Division Lucknow.

2- That the applicants were engaged by the respondents on the basis of selection from the list of candidates furnished by the employment exchange ~~Lucknow~~ Lucknow on the requisition of the department.

3- That by virtue of the instructions for absorption of ~~casual~~ casual labours in Group 'D' posts issued by D.G. P & T in their letter no. 260/142/95- STBI dated 20-2-76 . Copy of which is in the case file as an Annexure No.4 annexed to the amendment application dated 17-12-1990. The applicants were entitled for regularisation in Group 'D' posts on the basis of the prescribed ^{Period of their work} which the applicants ^{had} completed and the seniority ^{and} ~~period of their work~~ as casual labourer ^{not} on the basis of passing any examination.

4- That the respondents wrongly submitted in their counter affidavit that it was necessary for the applicants to pass the examination and they were not regularised because they did not pass the examination. That according to the instructions contained in D.G. P. & T letter dt. 20-2-76, the passing of the examination for absorption in regular service is compulsory only in the case of those casual labourers who are not recruited through the employment exchange and as the applicants were recruited through employment exchange this condition is not applicable for their absorption in the regular service. ~~WAKE~~

5- That as aforesaid the regularisation of the applicants did not depend on their passing the examination but they were entitled for absorption/regularisation in the regular service on the rendering

a minimum period of 2 years continued service as casual labourers.

6- That as evident from the record and already admitted by the respondents the applicants have rendered more than 10 years continued service as casual labourers and as such they were fully entitled for absorption/regularisation in the regular service without passing any examination.

7- That this specific point has probably been lost sight of in considering the above noted petition and in passing the orders dated 16-4-1992 thereof.

8- That in the interest of justice it is necessary that the orders dated 16 -4-1992 passed by this Hon'ble Tribunal in the above noted case be reviewed in the light of the aforesaid submissions.

Wherefore in the circumstances submitted above it is most respectfully prayed that this Hon'ble Tribunal may very kindly be pleased to review it's orders dt. 16 -4-1992 passed in the above noted case and be pleased to pass an order that the applicants be regularised to Group 'D' posts and ~~also~~ allow the petition with costs and such other orders may also be passed as this Hon'ble Tribunal may deem just and proper in the circumstances of the case.

Lucknow.

dt. 2-6-1992

S. Kumar
(Shailesh Kumar)
Advocate

Counsel for the applicants

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW Bench.

O.A.No. 347/90

Amar Nath Pansey and another Applicants.

versus

Union of India & others Respondents.

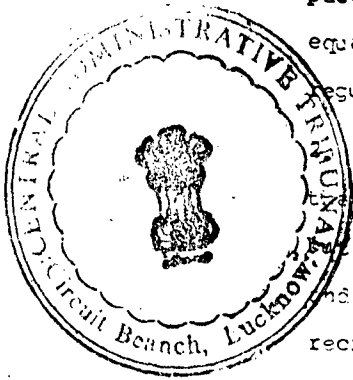
Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicants were engaged as casual labour in the office Senior Superintendent R.M.S. 'C' Division Lucknow. Applicant No. 1 was engaged in the year 1980 the applicant No. 2 in the year 1971. In the seniority list of casual labours eligible to appear in Group 'D' the date of engagement of applicants has been mentioned. The applicants have been continuously working as casual labour for more than 10 years. In the meantime Ministry of Home Affairs, Department of Personnel and Training issued a notification dated 7.6.88 regarding the policy of regularisation of casual workers. The applicants even then were not regularised. In addition to this Director General P&T vide letter dated 14.5.89 issued instructions, according to which casual labours were eligible for absorption in class IV posts provided they had been recruited through employment exchange and rendered a minimum of 2 years continuous service. The



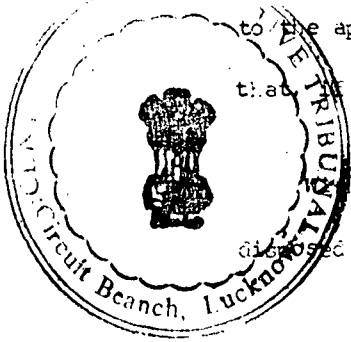
applicants' grievance is that even though they fulfill all the requisite qualifications, they have not been regularised but juniors were regularised and the applicants have been made to work as casual workers. They have prayed that the opposite parties may be directed to regularise the applicants from the date of their respective engagement in service as part time casual labours and their seniority after regularisation from the date of their engagement as part time casual labours be given and the opposite parties be directed to make payment to the applicants equal to the pay drawn by their counter part on regular post in accordance with law.



The respondents, in the counter have stated that recruitment examination took place on 31.12.88 and the applicants did not pass the written test, and therefore, could not be regularised and that no recruitment to regular Group 'D' posts has been made from the open market if suitable casual/part time casual labours are available.

3. Thus, according to the respondents the applicants could not be regularised, though they were working for 10 years or for more than 10 years and could not succeed but others succeeded. Now, the policy of the Government is that cases of such persons should have been considered twice in a year. Accordingly,

the respondents are directed to give 2 more opportunities to the applicants within a period of one year and after that if they succeed, they may be regularised.



the above observations, the application is disposed of with no order as to costs.

A.N.

V.C.

Shakeel/ Lucknow: Dated: 16.4.92.

C.R.
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow