

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

C.A. 1214/94.

Dt. of Decision : 18-06-97.

- 1. Kausalya Bai
- 2. G.Sobha
- 3. Puli Sujith Kumar
- 4. D.Kalavathi
- 5. Mohd.Khaja
- 6. G.Venu
- 7. Syed Younusuddin
- 8. R.Sripriya
- 9. V.Kamaraju
- 10. M.Srinivas
- 11. A.Sugathri
- 12. V.Aruna
- 13. S.R.Vidwansraju

.. Applicants.

Vs

- 1. The Regional Passport Officer,
Regional Passport Office, 12-2-837,
Asifnagar, Madhipatnam Road, Hyd-28.
- 2. The Chief Passport Officer and Joint
Secretary, Min.of External Affairs,
Govt.of India, Patiala House, New Delhi-11.
- 3. The Union of India, rep.by its Secretary,
Min. of External Affairs, Dept. of
Passports and Emigration, New Delhi. .. Respondents.

Counsel for the applicants : Mr.Briz Mohan Singh

Counsel for the respondents : Mr.V.Rajeswara Rao, Addl.CUSC.

CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

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18/6

ORDER

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.))

None for the applicants. Heard Mr.V.Rajeswara Rao, learned counsel for the respondents.

2. There are 13 applicants in this OA. Their details of the qualification, the date of appointment, employment registration number and address etc., are furnished at Annexure-1 to the OA. They submit that they were appointed as Casual Rated Clerks on the basis of written test and interview. All the applicants except applicant No.11 and 12 joined duty on 4-10-93 while applicants No.11 and 12 joined duties^a little later and are continuing ^at the time of filing of the OA. They further submit that they are already put in service of more than 240 days in a calender year working from 9-15 AM to 5-45 PM i.e., working hours prescribed for 5 days week system. They also submit that they are even working ^{for} ~~in~~ 6 days ⁱⁿ a week. A notice for disengaging them w.e.f., 1-10-94 was issued by the impugned office order No. F.16(1)AD/85 dated 22-8-1994 (Annexure-II to the OA).

3. This OA is filed assailing the said notice issued to them by the office order No.F.16(1)AD/85 dated 22-8-94 (Annexure-II to the OA) ~~and~~ for a further direction to set aside the same and regularise the services of the applicants herein by holding a departmental tests ^{as} was done in the year 1985 and 199¹ conducted by the Staff Selection Commission and to continue them in the posts held by them till they are filled^{up} by regular candidates.

4. An interim order was passed in this OA dated 27-9-94. The relevant portion of that order reads as below:-

"It is needless to say that if it is necessary to engage some more casual clerks on adhoc basis due to increase in work load, these applicants and similarly situated

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employees on the basis of the seniority, have to be ~~fit~~^{first} offered those posts, and till these applicants and those who are similarly situated are given the posts of casual clerks, no fresh recruits for the posts of casual clerks should be engaged".

5. The main contention of the applicants in this OA are that they have put in 240 days of service in a year and hence they are eligible for regularisation of their services. As there are work in the office their discharge by issuing the impugned notice is irregular. They further submit that in similar cases the Ernakulam Bench of this Tribunal had directed for regularisation of the applicants in those OAs. But no OA number of the Ernakulam Bench has been indicated in the OA. The next submission is that the casual rated clerks were regularised in the year 1985 and 1993 by subjecting them to a departmental tests. As the applicants herein are similarly situated and as there is work in the department their regularisation should also be considered on the same basis as was done in the year 1985 & 93

6. A reply has been filed in this CA. The respondents denied the fact that they are daily rated clerks. They submit that they were engaged only as a casual labour in accordance with the rule and were paid accordingly. The engagement of the casual labour is permitted for performing extra work as per the Govt. of India circular No.V.IV/579/13/93 dated 24th June, 1994. They also submit that there is no bar to discharge them when there is ^{no} work and this discharge is in accordance with the instructions of the DoP & T vide their circular No.51016/2/90-Estt(C) dt.10-9-93. The respondents further submit ^{that} in the year 1985 a departmental examination was conducted with the specific approval of the concerned department of the government to hold the examination to regularise the services of the daily rated clerks as LDC.

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[Signature]

With the condition that similar examination will not be conducted later and that ^{would} ~~will~~ be the last occasion. In 1993 also the SSC had conducted special qualifying examination to regularise the service of the adhoc/daily rated clerks/stenos employed in various Government offices. As a special dispensation ^{concerned} obtained from the department of the government, casual labourers engaged in various passport offices fulfilling the eligibility condition as mentioned in the relevant circulars, were also allowed to appear for that examination. The result of that examination has since been announced and the department is in the process of completing the procedural formalities to appoint them. The applicants cannot demand regularisation of their services ~~vide~~ by holding a departmental examination when there is no such provision in the departmental rules. However they are at liberty to apply whenever the selection is held by the commission and take their chance for appointment in the government service. In view of the above the respondents submit that the notice of termination issued on 22-8-94 is neither arbitrary nor malafide as there was no work to continue them. Hence, they ~~prayed~~ for dismissal of the application as having no merits.

7. The question of continuing the daily rated casual ~~labourers~~ labourers no doubt depends upon the availability of the work. If there is no work the department cannot be compelled ~~them~~ to employ ^{them} employees. In the interim order dated 27-9-94 it has been directed ~~that~~ to engage the applicants as casual rated clerks if there is need on the basis of the seniority in the place of fresh recruits. That itself should have given them some relief if there is work in the department. In the circular dated 24-9-94 it has been stated that the engagement through employment exchange ^{is} mandatory for conferring ~~the~~ temporary status of casual labourers. As the applicants except Mr. T. Sudesh Kumar and Smt. Vanitha Kumari are not engaged through employment exchange their temporary status had been cancelled vide office order No.F.16(1)AD/85 dt. 5-7-94.

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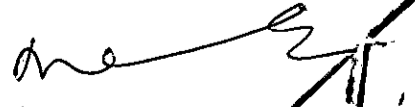
The said circular of 24-09-94 clearly stipulates to engage casual labourers for ~~this~~ six continuous days in a week if the work of casual nature is available. In view of that the applicant cannot submit that once they were engaged ~~dehorse~~ ^{the} rules they should be continued even if there is no work. In the circular dated 10-9-93 the dispensation for considering the casual labourers for ^{bringing them on temporary status and} regular job ^{is permitted only to those} ~~is~~ permitted only to those casual labourers engaged ^{prior to 7.6.88} directly without going through the employment exchange, ~~for grant of temporary status etc.~~ The applicants as can be seen ^{from} the Annexure-2, their own annexure, that they were engaged some time in the year 1993 and ~~except~~ ^{and} ~~except~~ to none of them have come through employment exchange.

8. There is no doubt that these applicants were engaged on account of exigencies of service. The ^{respondent's} ~~services~~ in their reply in para 2(d) state that the work load has come down and the present existing staff is more than sufficient to meet the work load. Hence, the applicants cannot say that there is work as they cannot ^{assert} ~~claim~~ the quantum of work available in ~~that~~ the office. Further the applicants cannot demand as a matter of right for regularisation when they do not fulfil the eligibility conditions for regularisation. But they are at liberty to appear for the selection either by the SSC or by the departmental tests by applying for the same, ~~and~~ if they are qualified they may be appointed as a regular clerk.

9. In view of what is stated above, we find that there is no irregularity or arbitrariness in the action of the respondent in ^{the} ~~issuing~~ the impugned notice for discharging ^{from} service for want of work. But they can apply whenever notification ^{is} ~~issued~~ either by the department or through SSC if they fulfil the eligibility condition for regular ^{by} ~~posting~~ as Clerk.

10. In view of what is stated above, the OA is dismissed subject to the observations made as above. No costs.


 (B.S. JAI PARAMESHWAR)
 MEMBER (JUDGE)


 (R. RANGARAJAN)
 MEMBER (ADMN)
 D.R. (S)

Dated : The 18th June 1997.

31/7/97

(X)

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. NANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR: M
(J)

DATED: 18/6/97

ORDER/JUDGEMENT

M.A./R.A/C.A. NO.

in

G.A. NO. 1214/94

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions,

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLKR

II Court.

केन्द्रीय प्रशासनिक अधिकरण
 Central Administrative Tribunal
 डेस्पत / DESPATCH
 - 4 JUL 1997
 हैदराबाद ब्याच
 HYDERABAD BENCH