

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR**

Original Application No. 1 of 2005

Indore this the 18th day of October 2005

Hon'ble Shri M.P. Singh, Vice Chairman

Hon'ble Shri Madan Mohan, Judicial Member

Harishankar Savita & 2 others.

.... Applicants

(By Advocate – Shri Deepak Khaut)

Versus

Union of India & 2 others.

.... Respondents

(By Advocate – Shri M. Rao)

ORDER

By Madan Mohan, Judicial Member –

By filing this Original Application the applicants have claimed the following main reliefs :

“i) to consider the applicants for employment against Group-D Posts on Casual/regular basis keeping in view their past service,

ii) the applicants be given relaxation in age, if necessary, in view of their past service under respondents,

iii) that no fresh recruitment to Group-D posts be made from open market till the applicants are adjusted/absorbed.”

2. The brief facts of the case are that the applicants were sponsored by the Employment Exchange for employment against Group-D posts. After selection, the applicants were appointed on casual basis against Group-D posts. The services of the applicant were discontinued by respondent No. 3 by verbal orders on the ground that there was no further work for them. However, they were verbally assured that as soon as there are vacancies the applicants will be re-engaged. After terminating the services of the applicant the respondent No. 3 has employed 17 persons on casual basis

(P)

against the Group-D posts. The applicants requested the respondents and asked them to grant them appointment against the available vacancies in Group-D posts. But their requests were rejected and the representations filed in this regard was also rejected vide impugned order dated 15.9.2004. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is contended on behalf of the respondents that the applicants were called from the Employment Exchange, Gwalior for engaging them on work which were of casual/seasonal/intermittent nature. They were never engaged against definite Group-D post with attached pay scale. The applicants have suppressed the number of days they have actually worked as casual workers. The sponsorship of the names from the Employment Exchange for casual workers does not confer upon them any right to be re-engaged without any work. The applicants were temporarily engaged for a limited period for casual nature of work. Their progress of work was only watched by the Caretaker. They have no right to continue on any post. Hence, this Original Application deserves to be dismissed.

5. It is argued on behalf of the applicants that this case is fully covered by the order dated 28th July, 2005 passed in OA No. 505/2004 in the case of Devendra Singh & Ors. Vs. Union of India & Ors. In its paragraph 5 it is held as under :

“5. After hearing the learned counsel for the parties, and perusing the records, we find that admittedly the applicants were engaged as casual labour by respondents and their services were discontinued verbally. We have perused Annexure A1 filed on behalf of the applicant and Annexure R1 filed on behalf of the respondents. Both these documents show the period of service put in by the applicant with the respondent department. All 11 applicants have served two consecutive years according to the aforesaid documents. We have perused the order of the Tribunal dated 27th March, 2003 passed in OA No. 560/2002 – Lal Singh



Kushwah & Ors. Vs. UOI & Ors. Para 5 & 7 of the aforesaid order is reproduced below :

“5. However, as per DOPT Scheme promulgated under OM dated 7.6.1988 and OM dated 26.10.1984 casual labours appointed through employment exchange and possessing minimum of two years continuous service as a casual labour in two consecutive years are entitled to be considered for appointment against Group ‘D’ posts subject to availability of vacancies.”

Admittedly the applicants have served the respondent department for two consecutive years and their names were also sponsored by the employment exchange. Hence, the present case is squarely covered by the aforesaid order of the Tribunal dated 27th March, 2003.”

Further in paragraph 6 the said OA was disposed of with the following directions :

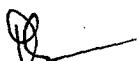
“6. Accordingly we dispose of this OA with the following directions :

- (i) In the event respondents have availability of work which has been earlier performed by applicants, they shall be considered for re-engagement in preference to juniors and outsiders.
- (ii) Respondents shall consider regularizing applicants against Group ‘D’ posts subject to their eligibility as per rules and availability of vacancies.

No costs.”

6. After giving careful consideration to the rival contentions made on behalf of the parties and on perusal of the order passed by the Tribunal in the aforesaid OA, we find that the present Original Application is squarely covered in all fours with the aforesaid order passed by the Tribunal in the case of Devendra Singh & Ors. (supra). We find that the similar issue has already been considered and decided by the Tribunal in the aforesaid case. Hence, the decision so passed by the Tribunal in the aforesaid case shall mutatis mutandis applicable to be present case as well.

7. Accordingly, the Original Application is disposed of with the following directions :



(i) In the event respondents have availability of work which has been earlier performed by applicants, they shall be considered for re-engagement in preference to juniors and outsiders.

(ii) Respondents shall consider regularizing applicants against Group 'D' posts subject to their eligibility as per rules and availability of vacancies. There shall be no order as to costs.

8. The Registry is directed to enclose the copy of memo of parties alongwith this order and also supply the copy of memo of parties to the concerned parties while issuing the certified copies of this order.


(Madan Mohan)
 Judicial Member


(M.P. Singh)
 Vice Chairman

पृष्ठोकल सं. ओ/न्या..... जवलपुर, दि.....
 छ लिखिति अवृद्धि दिनः—
 (1) सहित, अप्रृद्धिकारी वार एक्सोसिएशन, जवलपुर
 (2) अप्रृद्धिकारी वार एक्सोसिएशन, जवलपुर
 (3) अप्रृद्धिकारी वार एक्सोसिएशन, जवलपुर
 (4) अप्रृद्धिकारी वार एक्सोसिएशन, जवलपुर
 सूचना एवं आवश्यक तात्परी देतु
 उप रजिस्ट्रार

“SA”

Deepak Khati, *DAV Govt*
 M.Rao, *DAV Govt*

29/11/05