

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
CIRCUIT COURT SITTING AT GWALIOR**

**Original Application No. 208 of 2004**

*Indore* This the 18<sup>th</sup> day of October, 2005.

**Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member**

1. **Virendra Dhakar  
S/o Siyaram Dhakar  
Aged 29 years, Occupation :  
Service R/o Village Pandri  
Dist. Datia (M.P.) and 12 others.** **Applicants**

**(By Advocate – Shri D.P.Singh)**

**VERSUS**

1. **Union of India, through  
The Secretary,  
Ministry of Finance,  
Department of Revenue,  
Govt of India,  
New Delhi.**
2. **The Commissioner,  
Narcotics Department,  
19-Mall Road, Morar,  
Gwalior (M.P.).** **Respondents**

**(By Advocate – Shri V.K.Sharma)**

**ORDER**

**By M.P. Singh, Vice Chairman –**

M.A.No.255/2004 filed by the applicants to permit them to file a joint Original Application is considered and allowed.

2. By filing this Original Application, the applicants have sought the following main reliefs :-

“(i) That, the respondents be ~~further~~ directed to consider the case of the applicants as per the directives issued by the order dated 27.3.2003 and be further directed to consider the cases of the applicants for re-employment.

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(2) That, the respondents be further directed to consider the cases of the applicants for regularization."

3. The brief facts of the case are that the applicants had been initially appointed on contingent basis on various posts i.e. Peon, Chowkidar and Sweeper during the period between 1995 to 2000. According to the applicants the Government of India has also prepared a <sup>scheme 2</sup> policy to regularize the daily wage employees who were working in the department <sup>2</sup>regularly and had completed 240 days in a calendar year. According to them, despite the fact that they have worked for a long time in the department, they have not been regularized. They had earlier filed an OA No.294/2002, which was rejected by this Tribunal vide order dated 14.5.2002 with the observations that the applicants had not made any representation to the departmental authorities for consideration of their regularization. Thereafter, the applicants had submitted their notice-cum- representation on 14.7.2002 (Annexure-A-4). Despite their representation, the respondents have not provided any work to the applicants. Hence this Original Application.

4. The respondents in their reply have submitted that the applicants were engaged purely on casual basis as per requirement of work and not against any regular vacant posts. The Tribunal vide order dated 27.3.2003 in O.A.560/2002 had directed the respondents to consider for re-engagement, and not to re-engage them. The department has considered for re-engagement of contingency labour, but in view of the Ministerial instruction No.12034/30/90-Ad.III-B dated 25.9.1990, the direct engagement of contingent labour is not possible now and the necessary work is to be performed through the contractors and as such the department has not engaged any contingent labour after the orders of this Tribunal. As regards the averment of the applicants that they have worked for 240/206 days in a year, the respondents have submitted that it does not make a casual labourer entitled for grant of temporary status. The OM dated 10.9.1993 issued by the DOPT



provided that temporary status would be conferred on such casual labourers who were in employment on the date of issue of OM dated 10.9.1993, and who had rendered a continuous service of at least one year by this date. None of the applicants was in employment on 10.9.1993 as casual labourers under the respondents. Therefore, the aforesaid circular dated 10.9.1993 is not applicable in the applicants' case.

5. We have heard the learned counsel of parties and have also given careful consideration to the rival contentions.

6. We find that the applicants had earlier filed OA No.560/2002 which was disposed of by this Tribunal vide order dated 27.3.2003 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”.

Thereafter the applicants had submitted their representations but they have not been reengaged. The respondents in their reply have submitted that now the work is being got done through contractors in view of the instructions issued by the Government of India. They have also stated that the applicants cannot be granted the temporary status and regularization under the scheme of 10.9.1993, as they were not working on that day.

7. On perusal of Annexure-A-1 we find that the applicants were engaged during the period from 1995 to 2000, therefore, they cannot be granted the benefit of the scheme of Grant of temporary status issued by the DOPT vide OM dated 10.9.1993. The Hon'ble Supreme Court in the case of Union of India Vs. Mohan Pal, (2002)4 SCC 573 has held that the aforesaid scheme of 10.9.1993 was applicable to those casual labourers who were in employment on the date of issue of the scheme and had also rendered continuous service for the prescribed period. It does not postulate

giving temporary status to all casual workers as and when they complete required continuous service. However, as directed earlier in OA No.560/2002 vide order dated 27.3.2003, 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.

8. In the result, the O.A. is disposed of in the above terms. No costs.

9. The Registry is directed to enclose a copy of the memo of parties along with order for record. The Registry is further directed to supply a copy of memo of parties alongwith this order while issuing a copy of the same to the concerned parties.

(Madan Mohan)  
Judicial Member

(M.P.Singh)  
Vice Chairman

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पूरांकन सं तो/ज्या..... जलपुर, दि.....  
पतिमिति जलपुर  
(1) ललित, उ.न. जलपुर  
(2) आदेश जलपुर  
(3) प्रवर्ती जलपुर  
(4) जलपुर, जलपुर, जलपुर, जलपुर  
सूचना एवं आंतरिक कार्यवाही हेतु

Dr. Singh Ardh  
N.K. Sharma Ardh

Filed  
09/11/05