

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 560 of 2002

Jabalpur, this the 27th day of March 2003.

Hon'ble Mr. Shanker Raju - Member (Judicial)
Hon'ble Mr. B.K. Upadhyaya - Member (Admnv.)

1. Lal Singh Kushwah S/o Shri Kishan Lal,
age-31 years, Occupation- Service, R/o
Lakadi Ki Tall, Morar, Gwalior.
2. Lebnar Jojo S/o Late Shri Daude Jojo,
Age-28 years, Occupation- Service,
R/o- C/o Iqwal Khan, Adity Nagar,
Morar, Gwalior.
3. Ahsan Khan S/o Shri Iqwal Khan, Age-28
years, Occupation-Service, R/o Adity
Nagar, Morar, Gwalior.
4. Vijendra Singh S/o Late Shri Veer Singh,
Aged-26 years, Occupation-Service,
R/o Azad Nagar, Morar, Gwalior.
5. Vinod Kushwah S/o Kaptan Singh,
Age-26 years, Occupation-Service,
R/o Singhpur Road, Morar, Gwalior.
6. Rajendra Kumar S/o Shri Maniram,
Aged-31 years, Occupation- Service,
R/o Gande Wali Sadak, Lashkar, Gwalior.
7. Ramcharan S/o Late Shri Prasadi Lal,
Age-32 years, Occupation-Service,
R/o Ram Nagar, Morar, Gwalior.
8. Kadam Singh Kushwah R/o Shri Maharaj
Singh, Age-22 years, Occupation-Service,
R/o Kashipura, Morar, Gwalior.

9. Dinesh Kushwah S/o Late Shri Ramdulare, Age-27 years, Occupation-Service, R/o Kashipura, Morar, Gwalior.
10. Dev Kumar S/o Late Shri Bhagirath, Age-31 years, Occupation-Service, R/o Mal Road, Morar, Gwalior.
11. Dilip Kumar S/o Shri Narayan Das, Age-26 years, Occupation-Service, R/o Shinde Ki Chhawani, Gwalior.
12. Virendra Dhakar S/o Shri Siyaram, Age-28 years, Occupation- Service, R/o Village Pandri, Distt. Datia.
13. Vinod Gaur S/o Shri Hazari Lal Gaur, Aged-20 years, Occupation-Service, R/o Thatipur, Morar, Gwalior.
14. Ganga Ram S/o Shri Baboo Lal, Aged-21 years, Occupation-Service, R/o Ghas Mandi, Morar, Gwalior.
15. Atar Singh S/o Shri Ram Prasad, Aged-22 years, Occupation-Service, R/o Thatipur, Morar, Gwalior.
16. Mahesh Pal S/o Kunwar Pal, Aged-23 yrs. Occupation-Service, R/o Village- Mohanpur, Gwalior.
17. Ashok S/o Shri Bharosa Ram, Aged-32 years, Occupation-Service, R/o Mal Road, Morar, Gwalior.
18. Rajjan S/o Ratiram, Aged-22 years, Occupation- Service, R/o Dholi Bua Ka Pul, Lashkar, Gwalior.

19. Kasturi Devi W/o Late Shri Siv Prasad, Aged-26 years, Occupation-Service, R/o Dev Kumar Ramsahay, Mal Road, Morar, Gwalior.
20. Sughar Singh S/o Shri Sitaram, Aged-22 years, Occupation-Service, R/o 77, Panchsheel Nagar, Gwalior.
21. Keshav Kadera S/o Shri Lala Ram, Aged-27 years, Occupation-Service, R/o Harijan Basti, Morar, Gwalior.
22. Rakesh Kumar S/o Late Shri Jawahar Lal, Aged-28 years, Occupation-Service, R/o Qr. 85, type 1st, Narcotics Colony, Mal Road, Morar, Gwalior.

All working as full time contingent employee in the office of the respondent No.3.

(BY Advocate - Shri Arvind Srivastava)

APPLICANTS

-VERSUS-

1. Union of India
Through-The Secretary, Minister of Finance, (Department of Revenue)
NEW DELHI.
2. Narcotics Commissioner of India,
19, Mal Road, Morar, Gwalior.
3. Deputy Narcotics Commissioner,
(Administration),
19 Mal Road, Morar, Gwalior.

RESPONDENTS

(By Advocate Shri P. Sankaran)

ORDER(ORAL)

Mr. Shanker Raju, Member (J):

MA for joining together is allowed.

Applicants through this OA have sought re-instatement
oral ^u and impugn ^u order of termination whereby they have
been restrained from attending duties from 27.8.2002.
They have also sought regularisation against Group
'D' posts.

2. Applicants were full time contingent
casual labours have completed 240 days in a calendar
year and have sought temporary status and regularis-
ation as per DOP&T Scheme of 10.9.1993. All of them
have worked beyond 1995.

3. Respondents in their reply rebutted the
contentions and stated that there is no question
of regularisation of applicants as they were not
engaged against any sanctioned vacant posts and were
performing intermittent nature of work. Moreover,
as per OM of DOPT dated 10.9.93 they cannot be
considered for temporary status or regularisation.
It is also stated that regularisation depends on
availability of vacancies and is governed under the
rules.

4. We have carefully considered the rival
contentions of the parties and perused the material
on record. In view of the decision of the Apex Court
in Union of India v. Mohanpal and Others, (2002) 4
SCC 216 where the scheme of DOP&T has been observed
to be one time measure and would not apply to those
who were not in engagement on 1.9.1993. Applicants
are admittedly working on casual basis on full time

after 1995 have no valid legal claim for regularisation under the Scheme of DOPT of 1993.

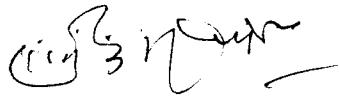
5. However, as per DOPT Scheme promulgated under OM dated 7.6.1988 and OM dated 26.10.1984 casual labours appointed through employment exchange and possessing minimum of two years continuous service as a casual labour in two consecutive years are entitled to be considered for appointment against Group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

6. In so far as objection as to non-sponsorship through employment is concerned, Apex Court in Excise Supdt., Malikapatnam, A.P. v. K.B.N. Visweshwara Rao and Ors. 1996 (6) SCC 216 has dispensed with the requirement of sponsorship through employment exchange; the same is no more an impediment for regularisation even against Group 'D' posts.

7. In the result, for the foregoing reasons the OA 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 regularising applicants against Group 'D' posts subject to their ~~eligibility~~ as per rules and availability of vacancies.

No costs.


(R.K. Upadhyaya)
Member (A)


(Shanker Raju)
Member (J)

'San.'

पृष्ठांकन सं ओ/न्या..... जबलपुर, दि.....

द्व इनकिंग लाइन लिमिटेड

- (1) रामेश्वर, रामेश्वर नगर उपमण्डपाज, जबलपुर
- (2) रामेश्वर, रामेश्वर नगर, के काउंसल
- (3) रामेश्वर, रामेश्वर, के काउंसल
- (4) वायपला, रेप्रेडा, जबलपुर ज्याम्नीठ

सूचना एवं आवश्यक कार्यवाही हेतु

Mr. Lee Screen
उपराज्यसभा

1.4.03

Signed
On 1st April 2003

A. Shankaran (Adv)
Shivastava (Adv)