

Central Administrative Tribunal
Jabalpur Bench

1. OA No.452/1999
2. OA No.791/1999
3. OA No.794/1999

Jabalpur this the 31st day of October, 2003.

Hon'ble Mr. Shanker Raju, Member (J)
Hon'ble Mr. Sarveshwar Jha, Member (A)

OA No.452/1999

Purushottam Barman

-Applicant

(None for applicant)

OA No.791/1999

Hiralal Sen

-Applicant

(None for applicant)

OA No.794/1999

(Shri Om Namdev, Advocate for applicant)

-Versus-

Union of India and others

-Respondents

(By Advocate - None)

O R D E R (ORAL)

Mr. Shanker Raju, Member (J) :

As the issue raised in the present OAs is common founded on similar set of facts and question of law, the same are being disposed of by this common order under Rules 15 and 16 of the Central Administrative Tribunals (Procedure) Rules, 1987.

2. Applicants who are employed on casual basis as Wiremen and Mali had continued for about five years on enhanced daily wages. Their services have been dispensed with, giving rise to the present OA.

3. It is contended on behalf of applicants that despite fulfilling all the eligibility requirements meant for the posts applicants though continued on daily wages have not been considered for regularisation which violates the

ratio laid down by the Apex Court in State of Haryana v. Piara Singh, AIR 1992 SC 2130. It is further stated that despite availability of posts respondents are not considering applicants for re-engagement as well as regularisation.

4. The respondents on the other hand vehemently opposed the contentions and have taken a contradictory stand; whereas sometime it has been referred to that applicants had been appointed on casual basis and at two places it has been stated that the engagement of applicants was on part time basis. It is further contended that part time contractual employees are not entitled for regularisation. Referring to few decisions of the Madhya Pradesh High Court in Writ Petition No.2763 of 1995 decided on 29.9.97 - Ramsiya Vishwakarma v. Union of India and Writ Petition No.3324 of 1995 - Ravi Shankar Sharma v. Director, Navodaya Vidyalaya decided on 29.9.97, it is contended that part time employees are not entitled for regularisation or re-instatement.

5. We have carefully considered the rival pleadings on record. Though respondents have referred to applicants as part time employees, consistently in their pleadings a stand has been taken that applicants had been appointed as casual labours on fixed wages and such contingent employees are engaged only on part time basis. In this view of the matter the contention put-forth by applicants that they had been appointed on casual basis has not been specifically controverted and as such has been deemed to be established. For a casual labour to be considered for regularisation Government of India's instructions contained in DOPT OM dated 7.6.1988 prescribe condition for absorption against Group 'D' post. Moreover, in the light

of the decision of the Apex Court in Piara Singh's case (supra) where casual workers continued for long period a presumption raises to availability of work and posts which requires consideration for regularisation.

6. Having regard to the fact that applicants had continued for long, which has been proved on record by accord of certificate from the concerned authorities though not acceding to the request of applicants for re-instatement, we partly allow these OAs with the direction to respondents to consider claims of applicants for regularisation against respective Group 'D' posts on their availability. This consideration should be done keeping in view the period rendered by applicants in service doing the similar kind of work. However, this shall be subject to the rules and instructions on the subject as also eligibility criteria laid down under the relevant rules meant for the posts. It is also observed that in the event respondents require work of the nature which had been performed by applicants in the past, their claim for re-engagement shall be considered in preference to outsiders, freshers and juniors. With these directions OAs are disposed of. No costs.

Let a copy of this order be placed in the case file of each case.


(Sarveshwar Jha)
Member (A)

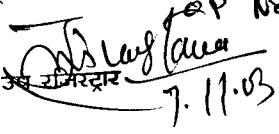

(Shanker Raju)
Member (J)

'San.'

कृतांकन सं ओ/न्या..... अवलम्बन, दि.....
यतिनिधि आवृत्ति दिनांक

- (1) रामेश, उत्तर काशीपुर नगर पालिका, अवलम्बन
- (2) अदीप्रसाद दिनांक दिनांक
- (3) द्वारा दिनांक दिनांक
- (4) अवलम्बन दिनांक, अवलम्बन दिनांक
रत्ना उपर्युक्त अवलम्बन कार्यालय केंद्र

Prashant Singh, Adv.
Om Nanded, Adv.
J.P. Nanded, Adv.


अवलम्बन
7.11.03


Tareef
7/11/03