

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

**ORIGINAL APPLICATION NO. 331/2013
WITH
MA No.291/00036/2015**

Date of Order: 3.2.2015

CORAM

HON'BLE MR.ANIL KUMAR, ADMINISTRATIVE MEMBER

Ajay Singh S/o Shri Kartar Singh by cast Banjara, aged about 28 yrs, r/o Quarter No.70, Dak Colony, Malviya Nagar, Jaipur working as casual labour Group-D in the o/o Chief Post Master General, Rajasthan Circle, Jaipur-7.

.....Applicant

(By Advocate Mr. P.N.Jatti)

VERSUS

1. Union of India, through the Secretary to the Govt. of India, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur-7.
3. Ramchandra Meena S/o Radheshyam Meena, Casual Labour, Group-D, o/o Chief Post Master General, Rajasthan Circle, Jaipur-7.

.....Respondents

(By Advocate Mr. M.S.Raghav)

**2. ORIGINAL APPLICATION NO. 332/2013
WITH
MA No.291/00037/2015**

Mahendra Singh S/o Shri Kartar Singh by cast Banjara, aged about 31 yrs, r/o Quarter No.70, Dak Colony, Malviya Nagar,

Jaipur working as casual labour Group-D in the o/o Chief
Post Master General, Rajasthan Circle, Jaipur-7.

.....Applicant

(By Advocate Mr. P.N.Jatti)

VERSUS

1. Union of India, through the Secretary to the Govt. of India, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur-7.
3. Gopal Lal Meena S/o M.P. Meena, Casual Labour, Group-D, o/o Chief Post Master General, Rajasthan Circle, Jaipur-7.

.....Respondents

(By Advocate Mr. M.S.Raghav)

ORDER

(Per Hon'ble Mr. Anil Kumar, Administrative Member)

The facts of the OA No.331/2013 and OA No.332/2013 are similar, therefore, with the consent of learned counsel for parties they are being disposed of by a common order. For the sake of convenience, the facts of OA No.331/2013 are being taken as a lead case.

The applicant has filed the present OA praying for the following reliefs:-

- 8.1 That by a suitable writ/order or the direction the order dated 25.4.2012 be quashed and set aside.
- 8.2 That by a suitable writ/order or the direction the respondents be directed to continue the service of the applicant.

8.3 That by a suitable writ/order or the direction the respondents be directed not to engage the fresh casual labours on the place of the applicant.

8.4 Any other relief which the Hon'ble Bench deems fit.

2. Heard the learned counsel for parties and perused the documents on record. The Ld. Counsel for the applicant argued that the applicant was engaged to do the work of Group-D in the office of Chief Post Master General, Rajasthan Circle, Jaipur w.e.f. 2010. That the applicant has been engaged continuously up to the month of July, 2011. That the applicant submitted a representation dated 1.8.2011 to the respondents with the request that the applicant has worked for 343 days with the respondent department and, therefore, he should not be disengaged and that the applicant be allowed work continuously in future also. However, his representation has been rejected by the respondents vide letter dated 25.4.2012 (Ann.A/1). The Ld. Counsel for the applicant argued that the order dated 25.4.2012 is arbitrary. That the respondents wants to disengage the service of the applicant and to engage the fresh casual labourer in place of the applicant which is against the observations of this Tribunal in the case of Hari Prasad Sharma Vs. Union of India and others in OA No.329/2005 order dated 23.3.2006(Ann.A/3). The respondents have engaged respondent No.3 in place of the applicant which is contrary to the observations of the

Hon'ble CAT in the case of Hari Prasad Sharma(supra),therefore, respondents be directed to engage the applicant.

3. On the other hand, the learned counsel for the respondents argued that the applicants were not engaged as a casual labour in the office of Chief Post Master General, Rajasthan Circle, Jaipur w.e.f. 2010. The applicant has not submitted any proof or evidence in support of his averments. There is no temporary casual labour in the office of the Chief Post Master General, Rajasthan Circle, Jaipur nor any outside person has been engaged. There is no provision in the departmental rules to engage an outsider on Group-D post. Group-D posts are filled as per recruitment rules on the subject. The present OA is based on fictitious grounds, therefore, it deserves to be dismissed. He further argued that the daily wage workers have no right on a post. The averments of the applicant that he has been engaged to perform duty of 8 hours a day is totally false. No right of the applicant has been violated by the respondents. However, he submitted that if there would be any work in the office of the respondents for which they would be required to engage daily wager then the applicants could also be considered if they are otherwise found suitable, therefore, at this stage no relief can be given to the applicants.

4. The learned counsel for the applicant has filed an affidavit with regard to the number of days he has worked with the respondents and also enclosed one receipt dated 6.4.2011 vide which he has received the payment of Rs.3105/- for working for 23 days in the garden of the office.

5. After hearing the learned counsel for parties and perusal of the documents on record it appears that the applicant may have worked with the respondent department on daily wages for some period. I agree with the arguments of the learned counsel for the respondents that a persons who is engaged on a daily wage basis has no right for regular employment. A daily wage worker is employed on the basis of work requirement of the day, therefore, even if the contention of the Ld. Counsel for the applicant is accepted that the applicant has worked for 403 days with the respondent department(though no proof has been given by the applicant to this effect) even then the applicant has no right to continue to be on daily wage basis with the respondent department. On the basis of above discussions the applicant is not entitled for any relief in this OA. However, in view of submissions made by the learned counsel for the respondents that if there will be any requirement of daily wager in the office of the respondents then the case of the applicants would also be considered

subject to their suitability, no directions need to be issued to the respondents in the present OA.

6. With these observations the OA is disposed of with no order as to costs.

7. Accordingly the MA No.291/00036/2015 filed in OA No.331/2013 and MA No.291/00037/2015 filed in OA No.332/2013 are also disposed of.

8. A copy of this order may be placed in file No.OA/332/2013 Mahendra Singh Vs. Union of India & others.

(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Adm/