

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No. 4304/2013

M.A. No. 3253/2015

New Delhi, this the 14th day of November, 2017

HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. NITA CHOWDHURY, MEMBER (A)

1. Braj Kumar Singh,
S/o Shri Shiv Balak Singh,
R/o H.No.135, Village New Gawal Pahari,
P.O. Gwal Pahari, District Gurgaon, Haryana.
2. Satish Kumar,
S/o Shri Dharam Singh,
R/o H.No.140, Village New Gawal Pahari,
P.O. Gwal Pahari, District Gurgaon, Haryana.
3. Mahender Singh,
S/o Shri Nawal Singh,
R/o H.No.127, Indira Colony No.2,
Sector-52, Near Ardee City,
P.O. Kanahi, Gurgaon, Haryana. .. Applicants

(By Advocate : Shri Anil Mittal with Ms. Komal Aggarwal)

Versus

Union of India,
Ministry of New and Renewable Energy,
Block No.14, C.G.O. Complex,
Lodi Road, New Delhi-110003
(Through its Secretary). .. Respondent

(By Advocate : Shri Subhash Gosai)

ORDER (ORAL)

By Mr. V. Ajay Kumar, Member (J)

Heard both the sides.

2. The applicant, three in number, and who are conferred with temporary status by the respondents, filed the O.A. seeking regularisation of their services as per rules.

3. The respondents vide the impugned Annexure A-1 dated 05.10.2013, while not opposing the claim of the applicants, however, submits that as there were only two clear vacancies of MTS against which CL with temporary status are to be considered for regularisation and since the applicants stood at Sl.Nos. 5 to 7, their cases are considered whenever any other vacancies are available with them.

4. The respondents in pursuance of the aforesaid stand have considered the case of the 1st applicant and regularised his services along with others, vide Memo dated 19.12.2014.

5. The applicants filed an MA stating that certain more vacancies of MTS arose and the cases of the applicants are required to be considered against those vacancies. The respondents vide their reply to the rejoinder stated as under:

“4. That as regards to the contents of Para no.4 of the present Rejoinder, same are wrong and denied in view of position explained in para-wise comments furnished to the Rejoinder.

5-7. That as regards to the contents of Pars no.5-7 of the present Rejoinder under reply are misleading and without factual position. It is submitted that the regularization of CL (TS) is to be effected as per provisions contained in Para no.8 of the said DoPT O.M. dated 10.09.1993 i.e. two out of every three vacancies in Group “D” cadres in respective Officers where the casual labourers have been working would be filled up by existing Recruitment Rules and in accordance with the Temporary Status and not that all the vacancies are to be filled by CL (TS) as mentioned. The vacancies shown in Annexure-A/5 of the Rejoinder could not be filled in view of the fact that Solar Energy Centre is no more in existence due to its conversion into

an Autonomous Institute namely National Institute of Solar Energy.”

6. However, vide their reply to the additional affidavit, the respondents have stated as under:

“2 to 5 – That as regards to the contents of Para No.1 to 5 of the present Additional Affidavit under reply, it is submitted that three post of MTS are lying vacant in this ministry and are to be filled by Staff Selection Commission as per DoPT’s OM No.AB-14017/6/2009-Estt (RR) dated 05.02.2015. Copy of DoPT OM dated 05.02.2015 is annexed herewith and marked as **Annexure-RA/1.**”

7. In the aforesaid facts, it is clear that the applicants rights for consideration of their cases for regularisation are crystallized, however, subject to other rules applicable to them. It is not forthcoming whether the statement of the respondents in the reply to the additional affidavit is part of their statement made in the reply to the rejoinder. However, the conferment of temporary status on the applicants and the seniority and availability of vacancies are not in dispute.

8. It is also not in dispute that even after the introduction of the SSC for various MTS categories in the Govt. of India, the respondents have regularised some identical persons by following certain ratio between the regularisation and direct recruitment through SSC. The applicants were denied with the similar benefit.

It is also not the case of the respondents that the applicants were not working as MTS for all these years under them.

9. In the circumstances, the O.A. is disposed of by directing the respondents to consider the cases of the applicants No.2 and 3 for regularisation on par with applicant No.1 and other similarly placed persons, within three months from the date of receipt of a copy of this order. Pending MA, if any, also stands disposed of. No order as to costs.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

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