

**Central Administrative Tribunal
Chandigarh Bench
(Circuit Bench at Srinagar)**

OA No.62/679/2018

Decided on : 17.09.2018

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

Hon'ble Ms. P. Gopinath, Member (A)

1. Manzoor Ahmad Khanday, aged 45 years, S/o Shri Mohammad Rajab Khanday, R/o Lasjan, Srinagar.
2. Fayaz Ahmad Bhat, aged 47 years, S/o Shri Abdul Gani Bhat, R/o Lasjan, Srinagar.
3. Mushtaq Ahmad Beg, aged 48 years, S/o Shri Habib Beg, R/o Lasjan, Srinagar.
4. Mohammad Shafi Wani, aged 45 years, S/o Shri Gani Wani, R/o Lasjan-B, Srinagar.
5. Mohammad Amin Ganai, aged 47 years, S/o Shri Habib Ganai, R/o Lasjan, Srinagar.
6. Abdul Ahad Ganai, aged 43 years, S/o Shri Habib Ganai, R/o Lasjan, Srinagar.
7. Abdul Ahad Beg, aged 50 years, S/o Shri Amin Beg, R/o Lasjan, Srinagar.
8. Abdul Ahad Rather, aged 46 years, S/o Shri Ghulam Qadir Rather, R/o Khunmoh, Srinagar.

... Applicants

(By Mr. Bilal Ahmed Malla, Advocate)

Versus

1. Union of India, through Secretary to Government
Ministry of Defence, New Delhi.

2. Directorate General of Surface Transport, Quart Master Generals Branch, Integrated H.Q. of M.O.D. (Army), D.H.P.G. New Delhi 110001.
3. Additional Director General of Man Power M.P.-4 (Civ.) (D) Adjutant General Branch, Integrated H.Q. of M.O.D. (Army), D.H.P.G. New Delhi 110001.
4. Headquarter 15 Corps (ST), C/o 56 APO.
5. P.C.D.A. Northern Command, Narwal Pains Satwari Jammu Cantt.
6. Area Account Office (Pay), Northern Command Shivpora, Srinagar.
7. 221, Coy. ASC (SUP), Type G, Pin No.905221, C/o 56 APO.

... Respondents

(By Ms. Monika Kondal, Advocate proxy for Mr. K.K. Thakur, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicants were engaged as casual labourers in the Army Supply Corps (ASC) (Respondent No.7 herein), at various points of time. On a request made by them, the respondents have conferred temporary status on the applicants, as provided under the Scheme contained in office order dated 10.9.1993 issued by the Department of Personnel & Training, New Delhi.

2. The next step was to appoint the applicants against the Group D posts. Complaining that such a step was not being taken up, the applicants filed SWP No. 426/2007 in the High Court of J&K. The same was disposed of on 17.3.2011, with a direction to the respondents to take steps for regularization of the services of the applicants.

3. On a consideration of the cases of the applicants, the 2nd respondent issued an office order dated 10.7.2012, stating, inter-alia, that the recruitment rules, have since been amended in the light of the recommendations of the 5th Central Pay Commission, one of the requirements therein is that a candidate must hold minimum qualification of matriculation and since applicants do not hold that qualification, they cannot be appointed to Group D post. The said order is challenged in this O.A.

4. The respondents filed a reply opposing the O.A. It is stated that that by the time the case of the applicants for regularization was considered, rules had been amended and since applicants do not fulfill the eligibility criteria of indicated qualification, so they are not entitled to regularization under the amended rules, no relief can be granted to them.

5. We heard Mr. B.A. Mala, learned counsel for the applicants and Ms. Monika Koundal, Advocate, proxy counsel for Mr. K.K. Thakur, Senior Panel Counsel, for the respondents.

6. It is not disputed that the applicants got the benefit of conferment of temporary status under the OM of 1993. The next stage was for regularization of their services. Prior to amendment of rules, there was no stipulation as to possession of the qualification of Matriculation. However, in the amended rules, a stipulation was made to the effect that a candidate must hold minimum qualification of matriculation.

5. Though, the delay in consideration of the case of the applicants for regularization has resulted in a hurdle, in terms of the requirement of matriculation qualification, it is evident that during the pendency of the O.A., an amendment was caused to the recruitment rules through order dated 31.7.2018. Requirement under Para 8 of the Scheme of 1993 has been relaxed. The relevant portion reads as under :-

“Two out of every three vacancies in the pre-revised Group ‘D’ pay scales replaced by the revised pay structure of Grade Pay of Rs.1800 in the Pay Band-1, in respective offices where casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by DoP&T from amongst casual labourers with temporary status who possess the minimum prescribed qualification of Metric or ITI. However, erstwhile regular Group ‘D’ staff (since upgrade to Group ‘C’ after implementation of recommendation of 6th Central Pay Commission) rendered surplus for any reason will have

prior claim for absorption against, existing / future vacancies. In case of illiterate casual labourers with temporary status, or those who fail to fulfill the minimum qualification prescribed for the posts, regularization will be considered only after imparting the requisite training by the respective administrative departments in terms of MoF OM No.1/1/2008-IC dated 24.12.2008. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourers. ”

6. Thus, the condition of possession of matriculation qualification in pursuance of amended rules, does not exist anymore.

7. Therefore, the O.A. is allowed and the respondents are directed to consider the case of the applicants for regularization, in terms of the order dated 31.7.2018, within a period of 90 days from the date of receipt of a certified copy of this order.

8. Needless to mention, the grant of benefit of regularization shall be prospective in nature.

9. The parties are, however, left to bear their own costs.

Pending M.As, if any, also stand disposed of.

(P. Gopinath)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

HC*