

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

No. O.A. 350/01698/2016
M.A. 350/00691/2017

Date of order: 17.1.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

1. **Boby Modak (Ghosh),**
Wife of Alok Modak,
Aged about 43 years,
Residing at North Bengal Medical College More,
P.O. Sushruta Nagar,
District: Darjeeling,
Pin: 734 012.
2. **Pradip Biswas,**
Son of Satish Chandra Biswas,
Aged about 44 years,
Residing at Bagdogra,
Rabindra Nagar,
P.O. Bagdogra,
District - Darjeeling,
Pin: 734 014.
3. **Ganesh Bhattaraj,**
Son of late N. Bhattaraj,
Aged about 42 years,
Residing at Patel Road,
P.O. Pradhan Nagar,
Siliguri,
District - Darjeeling,
Pin : 734 003.

All the applicants are working as Daily Rated Mazdoor/
Casual Labour in the office of Superintendent RMS SG
Division, Siliguri since 1997.

.. Applicants

- V E R S U S -

1. **Union of India,**
Through the Secretary to the
Govt. of India,
Ministry of Communications & IT,
Department of Posts,
Dak Bhawan,

Unh

New Delhi – 110 001.

2. The Chief Postmaster General,
West Bengal Circle,
Yogayog Bhawan,
P-36, C.R. Avenue,
Kolkata – 700 012.
3. The Post Master General,
North Bengal & Sikkim Region,
Siliguri,
District – Darjeeling,
Pin : 734 001.
4. The Director of Postal Services,
SG Division, Siliguri,
District : Darjeeling,
Pin – 734 001.
5. The Senior Superintendent,
RMS "SG" Division,
Siliguri,
District : Darjeeling,
Pin – 734 001.
6. The Superintendent,
RMS "SG" Division,
Siliguri,
District – Darjeeling,
Pin : 734 001.
7. The SRM, RMS "SG" Division,
Siliguri,
District – Darjeeling,
Pin – 734 001.
8. The Head Record Officer,
RMS "SG" Division, Siliguri,
District : Darjeeling,
Pin – 734 001.

.. Respondents

For the Applicants : Mr. S.K. Dutta, Counsel

For the Respondents : Mr. P. Pramanik, Counsel

[Signature]

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The instant Original Application has been filed as a sequel to earlier O.A. No. 350/2069/2015, primarily challenging the speaking order issued in compliance to the Tribunal's order in the aforementioned Original Application.

2. M.A. No. 350/00691/2017, arising from the above mentioned Original Application, has been filed by the applicants stating therein that they have common interest and common cause of action and, hence would pray for liberty for joint prosecution of the Original Application. The same is allowed and the Miscellaneous Application is disposed of accordingly.

3. Heard both Ld. Counsel examined pleadings and documents on record.

4. The case of the applicants, as submitted through their Ld. Counsel, is that the applicants are working as Daily/Rated Mazdoors with the respondent authorities since 1997 on being sponsored through Employment Exchange and after adhering to due procedure as per law. The applicants, however, were not considered for regularization in spite of representations to such effect.

Accordingly, the applicants had approached the Tribunal in an earlier O.A. No. 350/2069/2015 which was disposed of with a direction to consider the representations of the applicants. The representations were duly thereafter disposed of by a communication dated 06/04/2016 wherein the prayer of the applicants were rejected mainly on the ground that the applicants were not Casual Labourers and, being aggrieved, the applicants have approached the Tribunal in the second round of litigation.

Ld. Counsel for the applicants refers to a circular dated 17.5.1989 (Annexure A-8 to the O.A.) issued by the Respondent authorities which provides clarification on Casual Labourers and Part time Casual Labourers stating therein that all Daily Wagers are to be treated as Casual Labourers and contends that the speaking order of the respondent authorities failed to take this particular

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circular and the clarifications offered therein into account while rejecting the claim of the applicants.

Ld. Counsel for the applicants further submits that the applicants would be fairly satisfied if a direction is issued to the concerned respondent authorities to re-examine their claim and pass a revised speaking order after examining the applicability of the Circular dated 17.5.1989 thereto.

5. Ld. Counsel for the respondents does not object to further examination of the claim of the applicants in terms of the circular dated 17.5.1989.

6. Accordingly, without entering into the merits of the matter and with the consent of the parties, we dispose of the Original Application by directing the respondent No. 6 to re-examine the prayer of the applicants in the background of the circular dated 17.5.1989 and to issue a revised speaking order within six weeks of the date of receipt of a copy of this order. The revised speaking order issued in accordance with law should be conveyed in the form of a reasoned order to the applicants thereafter and till such time the revised speaking order is issued, the operation of the speaking order dated 6.4.2016 will be stayed.

7. With these directions, the O.A. is disposed of. The M.A. is disposed of as stated in Para 2 above. There will be no orders on costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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(a) Sl. No. of the application.....
(b) Name of the applicant.....
(c) Dt. of presentation or application for copy.....
(d) No. of pages.....
(e) Copying fee charges/ urgent or ordinary.....
(f) Dt. of preparation of copy.....
(g) Dt. of delivery of the copy to the applicant.....

28/11/19