

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

OA 2681/2014  
MA 2283/2014

Reserved on 20.02.2019  
Pronounced on 27.02.2019

**Hon'ble Ms. Nita Chowdhury, Member (A)**  
**Hon'ble Mr.S.N.Terdal, Member (J)**

1. Lal Babu Rai, aged about 41 years,  
S/o Late Shri Mahender Rai,  
R/o B/19, N.P.L.Colony,  
Delhi-110060.
2. Ishwer Singh, aged about 48 years  
S/o Late Shri Tara Chand  
R/o Village & P.O. Jafarpur,  
New Delhi-110073
3. Satyanarayan, aged about 41 years  
R/o Village & P.O. Soldha, Near  
Bahadurgarh, District Jhajhar,  
Haryana.  
(Services of all notices on the applicants  
Counsel's following address:  
  
Satya Mitra Garg, Advocate  
Chamber No. 209, C.K.Daphtary Block,  
Supreme Court New Lawyers Chambers  
Tilak Lane, New Delhi-110001.

.. Applicants

(By Advocate: Mr. S.M.Garg)

**VERSUS**

1. Council of Scientific and Industrial Research  
Through its Director General,  
Rafi Marg, New Delhi-110001
2. National Physical Laboratory  
Through its Director, Pusa Road,  
New Delhi.

... Respondents

(By Advocate: Mrs. K.Iyer)

**ORDER**

**(Hon'ble Mr. S.N.Terdal, Member (J):**

**MA 2283/2014**

Miscellaneous Application for joining together in a single petition is allowed.

**OA 2681/2014**

We have heard Mr. S.M.Garg, counsel for applicants and Ms. K.Iyer, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

- “(a) call for the records of the case;
- (b) quash and set aside impugned similarly worded Order dated 28.03.2012 [Annexure-A (Colly)] and similarly worded Orders dated 26.11.2013/09.12.2013 passed by Respondent No. 2 in respect of all the applicants [Annexure-B (Colly)];
- (c) pass an order directing the respondents to re-employ the applicants as daily wagers and further absorb the applicants in regular grades of Group 'C' in the National Physical Laboratory or any other constituents of Respondent No.1 in accordance with the Scheme of 1995 and order dated 08.09.2011;
- (d) pass such further or other orders which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case.”

3. The relevant facts of the case are that applicant no.1 was appointed as casual labourer on daily wages in September, 1988 and continued to work as Beldar /Mali till October 1990 in the respondents' organization, namely, National Physical Laboratory, Delhi and in 1990 his employment was abruptly discontinued. Likewise applicant no. 2 was appointed as casual labourer from January, 1980 and he also continued to work as Mali in the Horticulture department of the respondents and he was also abruptly discontinued in October, 1990 and applicant no.3 was appointed

in September, 1988 as casual labourer and he continued as helper in Electrical Air Conditioning Section of the respondents till July 1990 when his employment was abruptly discontinued. That similarly situated casual labourers, had filed a Writ Petition (Civil) No. 631 of 1988 (**Kamlesh Kapoor & Ors. Vs. Union of India and Ors.**) in the Hon'ble Supreme Court for their regularization. By the order dated 5.12.1988, the Hon'ble Supreme Court directed the respondents to prepare a Scheme for absorption of all persons who were working on casual basis for more than one year in their organization. Accordingly, a Scheme was framed by OM dated 25.06.1990 and while framing the Scheme, as stated above, the applicants were discontinued. Some of the similar situated casual labourers (Malis) who were discontinued in the year 1988 had filed OA No. 2215/1988 (**Suresh Prasad Thakur & Anr. Vs. Director General, CSIR and Anr.**) and OA 2221/1988 (**Shiv Charan & Anr. Vs. Director General, CSIR and Anr.**). In the said OAs vide order dated 12.04.1991 this Tribunal directed the respondents to continue the services of the applicants in those OAs in the regular vacancies and to consider their regularization and directed the respondents to strictly follow the provisions of Contract Labour (Regularization and Abolition) Act, 1970. The said judgment of this Tribunal dated 12.04.1991 was challenged by the respondents by filing Civil Appeal Nos.5299-5300 of 1993 (**Council of Scient. And Indl. Research & Anr. Vs. Suresh Prasad Thakur & Ors.**) before the Hon'ble Supreme Court. The Hon'ble Supreme Court vide order dated 10.08.1994 upholding the directions issued by this Tribunal, further directed the respondents to comply with the directions of this Tribunal and implement the Scheme. The respondents issued a letter

dated 6.12.1995 regarding the implementation of the Casual Workers Absorption Scheme of CSIR, 1995, the relevant portion of which is extracted below:-

"From:

Joint Secretary (Admn)  
Council of Scientific and Industrial Research

To

Head of all National Labs/Instt.

Sub: Absorption of Casual Workers in CSIR and its  
Labouratories/Institutes.

Sir,

I am directed to invite your kind attention to this office letter No. 1(20)/86-E.II dated 4.10.1995 forwarding the "Casual Workers Absorption Scheme, 1990" and to state that the said scheme has since been modified in pursuance of the direction given by the Hon'ble Supreme Court in one of the cases filed by some of the Casual Workers of a National Laboratory.

A copy of the revised scheme entitled "Casual Workers Absorption Scheme of CSIR, 1995" approved by the Governing Body at its 140<sup>th</sup> meeting held on 31.10.1995 is enclosed herewith for your information, guidance and necessary action. While approving this revised scheme, the Governing Body has also approved that the Casual Workers already identified for absorption under the earlier scheme of 1990 may be absorbed on the basis of the qualifications prescribed for recruitment to entry level posts in Group 'C' and 'D' posts (S&1 and non-technical) prior to 1.4.1990. However, for the Casual Workers engaged after 1.4.1990 their absorption will be considered on the basis of the qualification prevailing under the relevant recruitment rules at the time of consideration of their cases for absorption subject to fulfilment of other conditions of the revised scheme for such absorption.

The Governing body is also to be kept informed about the number of Casual Workers absorbed in terms of this scheme from time to time. For this purpose the details of the casual workers absorbed in your Lab./Instt. may kindly be provided to this office regularly by 15<sup>th</sup> January and 15<sup>th</sup> of July every year."

4. The applicants went on approaching the Tribunal again and again. Ultimately in OA No. 2306/2009 (**Lal Babu Rai Vs. Council of Scientific and Industrial Research through its Director General and Ors**),

2318/2009 ( **Ishwar Singh Vs. Director General, CSIR and Anr.** and OA 2468/2009 (**Satyanarayan Vs. Director General, CSIR and Anr.**) by a common order this Tribunal held that the respondents have no right to over-ride the provisions of Contract Labour Abolition Act and further directed the respondents to re-engage the applicants as casual labourers and considered their absorption on regular grade in National Physical Laboratory or other constituents of the respondents vide order dated 8.09.2011. The operative portion of the order is extracted below:-

"47. Thus on a cumulative consideration it is clear that the following declarations are to be issued:

- (a) That in view of the Hon'ble Apex Courts findings the respondents had a duty to consider the applicants when their name was not included in the list of 1995.
- (b) If the applicants are senior to those who are already appointed, then they would have a priority right as envisaged in clause 4 to be appointed.
- (c) Respondents have no right to over-ride the Contract Labour Abolition Act based on any executive instructions and thus deny the legitimate claims of livelihood for the persons like the applicants. In continuation of the order of the Tribunal issued in OA 2215/88 and OA 221/88 dated 12.4.1991 and affirmed by the Hon'ble Apex Court open recruitment from filling up entry level in Group 'C' and 'D' shall be banned till casual workers fulfilling rules and regulations are fully absorbed as also engagement of contract labour through any methodology or means. Paragraph 15 of judgment of the Hon'ble High Court of Delhi in Writ Petition No. 752-753/04 regarding the total length of service shall be relied on for taking appropriate decision.

48. On the basis of the above declarations and entirety of the order the respondents shall consider the applicants for reengagement and absorb the applicants in regular grades in National Physical Laboratory or other constituents of Respondent No.1 in the Scheme of 1995 within one month from today and pass appropriate speaking orders.

49. In view of the right to live and livelihood and the prima facie finding already entered in favour of the applicants, they shall within one week from today be re-engaged as casual labourers so as their life may not become extinct in the

interregnum of the legal exercise, as it is already found there is work enough to be done with the respondents.

50. The Behemoth institution with financial accumulation un-reachable by any common man should be more circumspect in dealing with those who are denied and deprived. The respondents had a duty to consider the applicants when their representation was available with them and this inaction had resulted in lengthy legal proceedings, the respondents shall pay a costs of Rs.50,000 (Rupees fifty thousand) to the Legal Services Authority at Delhi in order that it be utilized for the purpose of poor litigants."

51. The respondents shall also pay costs of Rs. 10,000 (Ten thousand) to the applicants within one week from today.

52. OA is thus allowed with total costs of Rs.60,000/- on each of the three cases."

In compliance of the said order of this Tribunal dated 08.09.2011, the respondents issued three impugned orders with respect to each of the applicants, all dated 28.03.2012. Though they were re-engaged but, however, considering solely in the terms and conditions of their Scheme of 1995 rejected their absorption stating that no relaxation in qualification or with respect to age are permissible. The said three orders dated 28.03.2012 are challenged in this OA.

5. The counsel for the applicants vehemently and strenuously contended that in view of the fact that the applicants were appointed as casual labourers before 1.04.1990 and as per the stand of the respondents stated in the letter dated 6.12.1995 to the effect that those who were engaged prior to 1.04.1990 are required to be absorbed on the basis of the qualification prescribed in the Scheme of 1990 and that it is purely because of the conduct of the respondents that their absorption was delayed as such the age relaxation is required to be given to the applicants in the interest of fairness. The counsel for the respondents equally vehemently supported the stand taken by the respondents in the

aforesaid impugned orders. When we asked the counsel for the respondents about the stand of the respondents with respect to the contents of the aforesaid letter dated 6.12.1995, the counsel for the respondents could not contradict the said contents. In the counter filed by the respondents also they have not stated anything contradicting the contents of the aforesaid stated letter dated 6.12.1995, on the other hand, they have stated that it is a matter of record.

6. In view of the facts and circumstances narrated above, and the analysis based on the letter dated 06.12.1995 made above and in view of the various directions of this Tribunal and the Hon'ble Supreme Court referred to above, we set aside the impugned orders dated 28.03.2012 (Ann.1 Colly). In the ordinary course, we would have directed the respondents to consider the applicants for absorption as per the relax standards with respect to educational qualification as well as age limit. But, however, these litigations are going on since 1990 without any substantial relief to the applicants. In the circumstances and in view of the peculiar facts of the case, we direct the respondents to absorb the applicants forthwith under the Scheme operating before 1.04.1990 without any back wages but, however, with all consequential benefits.

7. Accordingly OA is disposed of in the above terms. No order as to costs.

**( S.N.Terdal )**  
**Member (J)**

**(Nita Chowdhury)**  
**Member (A)**

‘sk’

.....