



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

OA No. 1033 of 2002

Reserved on : 07.03.2016
Dated of order : 08.03.2016

PRESENT:

THE HON'BLE MR. JUSTICE V.C.GUPTA, JUDICIAL MEMBER
THE HON'BLE MS. JAYA DAS GUPTA, ADMINISTRATIVE MEMBER
.....

1. Debasish Pal son of Karuna Sindhu Pal working as Part-time Casual Labourer under Platform Inspector, MA Howrah Railway Mail Services, WB Divn., Howrah, residing at 6, Dr. Chatterjee Lane, Sreerampur, Dist. Hooghly, WB.
2. Sri Dipak Kr. Pramanik @ Dipak Pramanik, Son of Chandrakanta Pramanik working as Part time Casual Labourer under Platform Inspector, M.A, Howrah Railway Mail Services, W.B. Divn., Howrah residing at Vill. Mayanapur, Po. Khania Moynapur, Dist. Howrah-711316.
3. Sri Anup Kr Das son of Anil Kr Das working as Part time Casual Labourer under Plat form Inspection, M.A Howrah, Railway Mail Services, W.B. Divn, Howrah residing at 122, Purbachal Pally, Po. Angus Dist. Hooghly, West Bengal.
4. Sri Ranjan Chakraborty son of Late Nandalal Chakraborty working as Part time Casual Labourer under Plat Form Inspector, M.A, Howrah, Railway services, W.B. Division, Howrah, residing at 4, Samabaya Path 'B' Block, Nabagram, Dist. Hooghly, West Bengal.
5. Sri Kajal Majumdar, son of Dwijahari Majumdar working as Part time Casual Labourer under Plat Form Inspector, M.A, Howrah, Railway Mail Services, W.B. Divn., Howrah, residing at 18 Kailash Nagar, PO. Hridaypur, PS. Barasat, Dist. Orth 24 Pgs.

20/5/16

6. Sri Subir Kr. Das, son of Sudhir Kr Das working as Part time Casual Labourer under Plat form Inspector, M.A, Howrah, Railway Mail Services, W.B. Division, Howrah residing at Vill. Bhattanagar, Po. Bhattanagar, Dist. Howrah-711203.
7. Sk. Israil, son of Sk. Nurul Islam working as Part time Casual Labourer under Platform Inspector, M.A Howrah Railway Mail Services, W.B Division, Howrah residing at Vill. Bahadurpur, Po. Kharia, Maynapur, Dist. H owrah-711316.

.....Applicants

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

-Versus-

1. Union of India through the Secretary to the Govt. Of India, Ministry of Communication, Deptt., of Posts, Dak Bhawan, New Delhi.
2. The Chief Post Master General, West Bengal Circle, Yogayog Bhawan, Kolkata-12.
3. The Senior Superintendent Railway Mail Services, W.B. Division, Howrah-700101.

.....Respondents

For the Respondents : Mr. P.N.Sharma, Counsel

ORDER

JAYA DAS GUPTA AM:

This OA has been filed by the applicants under section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"8. RELIEF SOUGHT:

- (a) An order granting leave to the applicants under rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules to move this application jointly;

327

(b) An order quashing and/or setting aside the impugned notification inviting applications for filling up 30 vacancies of GDS Mailmen at Mail Agency Howrah, R.M.S. P.I Unit Howrah;

(c) An order directing the respondents to consider the case of the applicants for absorption as GDS Mailmen before taking any step for filling up the post of GDS Mailmen lying vacant at Mail Agency Howrah R.M.S. P.I. Unit by inviting applications from outsiders;

(d) Any other order or further order/orders as to this Hon'ble Tribunal seem fit and proper."

2. The main contention of the Applicants is that they should be given preference in the engagement as GDS Mail man against 30 vacancies sought to be filled up by direct recruitment as they have been engaged as Thika Coolies long before the year 1992 and, thus, their names need not be sponsored through the Employment Exchange. Moreover, they are actually part time casual workers and not substitute/Coolies as contended by the Respondent authorities and must be guided by the relevant circulars/orders regarding absorption/engagement against regular Gr. D posts or against the vacancies of GDS Mailman. As the Respondent authorities have rejected their claim for engagement as GDS Mailman, they have filed this OA for redressal of their grievances.

Per contra, it is the case of the Respondents that the applicants are not, at all, part time casual labourers but coolies who have been engaged on and off and they have not come

20/

through the Employment Exchange. Hence, the present OA deserves to be dismissed.

3. The issues to be considered are as under:

- (a) The status of the applicants? Are they part time casual labourers?
- (b) Does their name need to be sponsored through Employment Exchange for considering their prayer for engagement against GDS Mailman?
- (c) What are the conditions to be fulfilled as per the prevalent recruitment rules for considering the prayer of the applicants for engagement as GDS Mail man.

4. In order to examine the issues, it is necessary to examine the relevant circulars/orders, cited by the respective parties and they are summarized as under:

- (i) DOPT OM no. 49014/18/84-Estt. (I) dated at New Delhi 7th May, 1985
- (ii) "DG Posts Letter No.17-141/88-EDC & Trg., dated the 6th June, 1988 :-
- (iii) Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) OM No. 49014/2/86-Estt.(C) dated 7th June, 1988.
- (iv) DG Posts letter No. 65-24/88-SPB-I dated 17.5.89.
- (v) DG Posts letter No. 65-24/88-SPB-I dated 17.5.89.
- (vi) OM No. 49014/4/90-Estt.(C) dated 18th April, 1991, Government of India, Ministry of Personnel, Public Grievances & Pension (Department of Personnel & Training).
- (i) DOPT OM no. 49014/18/84-Estt. (I) dated at New Delhi 7th May, 1985

20

Subject: Regularisation of services of casual workers in Group 'D' posts—Relaxation of employment exchange procedure.

The undersigned is directed to say that services of casual workers may be regularized in Group 'D' posts in various Ministries/Departments etc. subject to certain conditions, in terms of the general instructions issued by this Department. **One of these conditions is that the casual workers concerned should have been recruited through the employment exchange. Sponsorship by the employment exchange being a basic and essential condition for recruitment under the Govt., it has repeatedly been brought to the notice of the various administrative authorities that recruitment of casual workers should always be made through the employment exchange.** It has, however, come to the notice of this Department that in certain cases these instructions were contravened and casual workers were recruited otherwise than through the employment exchange.

Though these persons, may have been continuing as casual workers for a number of years, they are not eligible for regular appointment and their services may be terminated any time. Having regard to the fact that casual workers belong to the weaker section of the society and termination of their services will cause undue hardship to them, it has been decided, as a one time measure, in consultation with the DGE&T, **that casual workers recruited before the issue of these instructions may be considered for regular appointment to Group 'D' posts in terms of the general instruction, even if they were recruited otherwise than through the employment exchange, provided they are eligible for regular appointment in all other respects.**

2. It is once again reiterated that no appointment of casual workers should be made in future otherwise than through the Employment Exchanges. If any deviation in this regard is committed, responsibility

mc

should be fixed and appropriate departmental action taken against the official concerned.

- (ii) "DG Posts Letter No.17-141/88-EDC & Trg., dated the 6th June, 1988 :-

(33) **Preference to casual labourers in the matter of appointment as ED Agents** -According to the prevalent Recruitment Rules governing the cadre of Group 'D', the order of preference among various segments of eligible employees is as under :-

- (a) Non test category
- (b) ED employees
- (c) Casual labourers
- (d) Part time casual labourers.

2. Since the number of vacancies of Group 'D' is limited and the number of ED employees eligible for recruitment as Group 'D' is comparatively large, the casual labourers and part time casual labourers hardly get any chance of their being absorbed as Group 'D'. Thus majority of casual labourers with long service as left out without any prospect of their getting absorbed in Group 'D' cadre.

3. Keeping the above in view, a suggestion has been put forth that casual labourers, both full and part time should be given preference for recruitment as Extra Departmental Agents, in case they are willing, with a view to afford the casual labourers a chance for ultimate absorption as Group 'D'.

4. The suggestion has been examined in detail and it has been decided that casual labourers, whether full time or part time, who are willing to be appointed to ED vacancies may be given preference in the matter of recruitment to ED posts, provided they fulfil all the conditions and have put in a minimum service of one year. For this purpose, a service of 240 days in a year may be reckoned as one year's service. It should be

mc

ensured that nominations are called for from Employment Exchange to fill up the vacancies of casual labourers so that ultimately the casual labourers who are considered for ED vacancies have initially been sponsored by Employment Exchange."

- (iii) **Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training)**
OM No. 49014/2/86-Estt.(C) dated 7th June, 1988.

Subject: Recruitment of casual workers and persons on daily wages –Review of policy.

The policy regarding engagement of casual workers in Central Government offices has been reviewed by Government keeping in view the judgement of the Supreme Court delivered on the 17th January, 1986 in the Writ Petition filed by Shri Surinder Singh and others vs. Union of India and it has been decided to lay down the following guidelines in the matter of recruitment of casual workers on daily wage basis:-

i) Persons on daily wages should not recruited for work of regular nature.

ii) Recruitment of daily wagers may be made only for work which is casual or seasonal or intermittent nature or for work which is not of full time nature, for which regular posts cannot be created.

iii) The work presently being done by regular staff should be reassessed by the administrative Departments concerned for output and productivity so that the work being done by the casual workers could be entrusted to the regular employees. The Departments may also review the norms of staff for regular work and take steps to get them revised. If considered necessary.

iv) Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day.

mc

v) In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worker may be paid only the minimum wages notified by the Ministry of Labour or the State Government/Union Territory Administration, whichever is higher, as per the Minimum Wages Act, 1948. However, if a Department is already paying daily wages at a higher rate, the practice could be continued with the approval of its Financial Adviser.

vi) The casual workers may be given one paid weekly off after six days of continuous work. vii) The payment to the casual workers may be restricted only to the days on which they actually perform duty under the Government with a paid weekly off as mentioned at

(vi) above. They will, however, in addition, be paid for a National Holiday, if it falls on a working day for the casual workers.

viii) In cases where it is not possible to entrust all the items of work now being handled by the casual workers to the existing regular staff, additional regular posts may be created to the barest minimum necessary, with the concurrence of the Ministry of Finance.

ix) Where work of more than one type is to be performed throughout the year but each type of work does not justify a separate regular employee, a multifunctional post may be created for handling those items of work with the concurrence of the Ministry of Finance.

x) The regularisation of the services of the casual workers will continue to be governed by the instructions issued by this Department in this regard. While considering such regularisation, a casual worker may be given relaxation in the upper age limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age limit for the relevant post.

xi) If a Department wants to make any departure from the above guidelines, it should obtain the prior concurrence of the Ministry of Finance and the Department of Personnel and Training. All the administrative Ministries /Depts. Should undertake a review of appointment of casual workers in the offices

mc

under their control on a time-bound basis so that at the end of the prescribed period, the following targets are achieved:-

a) All eligible casual workers are adjusted against regular posts to the extent such regular posts are justified.

b) The rest of the casual workers not covered by (a) above and whose retention is considered absolutely necessary and is in accordance with the guidelines, are paid emoluments strictly in accordance with the guidelines .

c) The remaining casual workers not covered by (a) and (b) above are discharged from service.

2. The following time limit for completing the review has been prescribed in respect of the various Ministries/Depts:-

a) Ministry of Railways 2 Years

b) Department of Posts, Department of 1 Year Telecommunications and Department of Defence Production

c) All other Ministries / Depts./Offices 6 months
Each Ministry should furnish a quarterly statement indicating the progress of the review in respect of the Ministry (Proper) and all Attached / Subordinate offices under them to the Department of Personnel and Training in the proforma attached. The first quarterly return should be furnished to this Department by the 10th October. 1988.

3. By strict and meticulous observance of the guidelines by all Ministries/Depts, it should be ensured that there is no more engagement of casual workers for attending to work of a regular nature, particularly after the review envisaged above is duly completed. Each Head of Office should also nominate an officer who would scrutinise the engagement of each and every casual worker and the job for which is being employed to determine whether the work is for casual nature or not.

4. Ministry of Finance etc. are requested to bring the contents of this Office Memorandum to the notice of all the appointing authorities under their respective administrative control for strict observance. Cases of negligence in the matter of implementing these guidelines should be viewed very seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters."

(iv) **DG Posts letter No. 65-24/88-SPB-I dated 17.5.89.**

I am directed to say that references have been received seeking clarification as to which class of workers should be treated as full time or Part time Casual Labourers.

It is hereby clarified that all daily wages working in Post Offices or in R.M.S Offices or in Administrative Offices or P.S.Ds/M.M.S under different designations (Mazdoor, Casual Labourers, Contingent Paid Staff, Daily Wager, Daily Rated Mazdoor, Outsider) are to be treated as Casual Labourers. Those Casual Labourers who are engaged for a period of 8 hours a day should be described as Part time Casual Labourers. All other designations should be discontinued.

(v) **DG Posts letter No. 65-24/88-SPB-I dated 17.5.89.**

22. Substitutes should not be termed as Casual Labourer.

Substitutes engaged against absentees should not be designated casual labourer. For purposes of recruitment to Group D posts Substitutes should be considered only when casual labourers are not available. That is Substitutes will rank last in priority, but will be above outsiders. In other words, the following priority should be observed:-

- (i) NTC Group 'D' officials;
- (ii) EDAs of the same Division;
- (iii) **Casual labourers (full time or part time. For purpose of computation of eligible service, half of service rendered as part time casual labourer should be taken**

into account. That is, if a part time casual labourer has served for 480 days in a period of 2 years he will be treated, for purposes of recruitment to have completed one year of service as full time casual labourer).

- (iv) EDAs of other Divisions in the same Region;
- (v) Substitutes (Not working in Metropolitan Cities);
- (vi) Direct recruits through Employment Exchanges.

(Note: - Substitutes working in Metropolitan Cities will however, rank above No. (v) in the list).

- (vi) OM No. 49014/4/90-Estt.(C) dated 18th April, 1991, Government of India, Ministry of Personnel, Public Grievances & Pension (Department of Personnel & Training).

Subject: Regularisation of services of casual workers in Group 'D' posts – Relaxation of employment exchange procedure and upper age limit.

The undersigned is directed to refer to this Department's OM No. 49014/4/77-Estt.(C) dated 21st March, 1979 where in the conditions for regularisation of casual workers against Group 'D' posts were prescribed. The policy with regard to engagement and remuneration of casual workers in Central Government offices has been reviewed from time to time and detailed guidelines in the matter were issued vide OM No. 49014/2/86- Estt.(C) dated 7th June, 1988.

2. Requests have now been received from various Ministries/Departments for allowing relaxation in the conditions of upper age limit and sponsorship through employment exchange for regularisation of such casual employees against Group 'D' posts, who were recruited prior to 7.6.88, i.e., date of issue of guidelines. The matter has been considered and keeping in view the fact that the casual

employees being to the economically weaker section of the society and termination of their services will cause undue hardship to them, it has been decided, as **a one time measure**, in consultation with the Director General Employment and Training, Ministry of Labour, that **casual workers recruited before 7.6.88 and who are in service on the date of issue of these instructions**, may be considered for regular appointment to Group 'D' posts, in terms of the general instructions, even if they were recruited otherwise than through employment exchange and had crossed the upper age limit prescribed for the post, provided they are otherwise eligible for regular appointment in all other respects.

3. It is once again reiterated that recruitment of casual workers in Central Government Offices may be regulated strictly in accordance with the guidelines contained in this Department's OM No. 49014/2/86-Estt. (C) dated 7.6.88. Cases of neglect of these instructions should be viewed very seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters.

4. Ministry of Finance etc. are requested to bring the contents of this OM to the notice of all the appointing authorities under their respective administrative control."

4. It is an admitted fact that the applicants were not recruited through employment exchange. The learned counsel for the applicants submitted that the Daily Rated Mazdoor/DRM can be considered as part time casual workers. This has been stoutly refuted by the respondents who have maintained that they cannot be considered as casual labourer but they are as coolies and DRM. However, DGP Letter No. 65-24/88-SPB-I dated 17.5.1989 cited above would clearly show that Daily Rated Mazdoor can be treated as casual labourers and therefore, the applicants can be

considered as part time casual labourers as they have been engaged for less than eight hours in a day. Also going through the Circulars/orders as above, it is amply clear that the applicants who are Thika Mazdoors/DRM can be considered as part time casual labourers but they have to show that they worked before 7.5.1985/7.6.1988 for 480 days in two years. ^{only} Only such casual labourers need not be sponsored through Employment Exchange.

5. It is the case of the applicants that they were working as part time casual labourers with the designation of Thika Mazdoors in the RMS and their initial date of engagements were on or before June, 1985 except applicant No.5 who was engaged in April, 1983. Their services were discontinued for sometime but they have continuously been working since they were reengaged as per the decision of the directorate dated 13.12.1989.

It is the positive case of the applicants that they have completed more than 480 days in two years and continuously working as such, therefore, they are entitled to be considered for regularization against Gr. D posts in terms of the DGP Letter No. 66/70/87-SPB-I dated 19.2.1988. This has not happened because of the non availability of adequate number of Gr. D posts. As per the letter of the Directorate dated 17.9.1990, steps were taken by the authorities for absorption of such part time casual labours in the posts of Extra Departmental Agents provided they fulfil the requisite qualification. Accordingly, the authorities have decided to

fill up 30 vacancies of GDS Mailman without however giving preference to the present applicants and for that purpose they have invited applications by issuing notification at Annexure-A/9 which is the impugned order. This notification was issued inviting applications from all eligible candidates for filling up of thirty vacant posts of GDS Mail man at Mail agency Howrah RMS Howrah setting out the age and qualification and against such notification, the applicants approached this Tribunal praying for direction to absorb them against those vacancies instead of recruiting people from outside, as they have been with the respondent authorities right from the year 1983/1985.

6. In order to establish their right for such appointment against the vacancies of GDS Mailman, the applicants placed reliance on annexure-A/2 which is an identity card dated 9.5.1986 issued by the respondent department to one of the applicants i.e. Shri Anup Das. ID Cards of the other applicants are not annexed. They have placed reliance on annexure-A/3 wherein wages for the period also from 1.5.98 to 31.5.98 were sanctioned in their favour. Annexure-A/4 which is the muster roll of daily rated mazdoors the names of the applicants are also shown but it is noted in annexure -A/4 that the applicants were initially engaged at Mail Agency. Howrah RMS upto November, 1987 as Thika Mazdoors and thereafter, they were retrenched. They are working at MA, Howrah as Thicka Mazdoors from March, 1992 continuously. Thereafter,

the applicant placed reliance on the letter dated 04.08.1995 at Annexure-A/5, alleged to have been sent by the Senior Superintendent RMS WB Dn, Howrah to the Chief Postmaster General, West Bengal Circle, Calcutta-700012 with copy to fifteen officers and Post Master General. The following portion of Annexure-A/5 is extracted below:

"The particulars of such DRMs who are being engaged for the pretty long time are furnished in Annexure A. The D.R.Ms who worked for pretty long time and praying for their engagement as Daily Rated Mazdoors are furnished in Annexure-B.

Sl.No.	Name	Office	Period	This office reference
1.	Sk. Israil,	MA Howrah	5.2.86 to 14.11.87	05/4/PIUnit/DRM/PT-II Dt.13.6.90
2.	Debasish Pal	do	do	do
3.	Sri Subir Kr. Das	do	do	do
4.	xxx			
5.	Sri Ranjan Chakraborty	do	do	do
6.	xxxxx			
7.	Sri Anup Kr Das	do	do	do
	XXXX	XXXX		XXXXX
They are even now working as part time casual labourers.				

-
- 2.. Sri Kajal Majumdar, Seramporas RMS 7.4.83
3. Sri Dipak Kr. Pramanik MA Howrah 29.04.1992

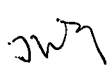
Thus, it may be seen that the existing casual labourers were engaged prior to dates of my joining in RMS 'WB' Division on 13.9.94 and the said casual labours (Part time of course) have already completed 240 days each.

Sd/-K.K.Bose
Senior Superintendent RMS WB Dn
Howrah"

However, the existence of the above communication dated 04.08.1995 has vociferously been objected to by the Respondent authorities. They have candidly stated that even on thorough scrutiny of the office record, this letter could not be located by them. Moreover, the Respondents have wondered as to

how the applicants could lay their hands with such communication when the purported communication has not been sent to them by name.

It is the contention of the learned counsel for the applicants that such communication has been obtained by the applicants from the platform inspector, Mail Agency, RMS Howrah. But he failed to submit any specific information or document regarding availability of Annexure-A/5 to the applicants. This Tribunal on 22.12.15 directed the respondent authorities to produce the particulars as to how this annexure-A/5 emerged when in fact that copies of this letter alleged to have been sent to fifteen officers and Post Master General only. On 22.12.2015 the respondents submitted that the applicant must clarify adequately as to how they got this annexure-A/5 when they (especially Shri Kajal Mazumdar who is the applicant in the present case) could not produce it in OA No. 924 of 1994 earlier which was dismissed by this CAT vide order dated 4.11.1994. It has been stated by the Respondents that the Annexure-A/5 is not available in the office file of the Senior Supdt. RMS, Howrah or in the office of the Platform Inspector Mail Agency, RMS Howrah division, Howrah. Without any record available anywhere, the respondents have submitted that they are unable to come to a conclusion whether annexure-A/5 is a genuine or fake one.



In the above circumstances, we feel when the very genuineness of annexure-A/5 is in question and when there is no documentary evidence of its existence in the official records, its actual existence is not at all established by the applicants.

7. It is also the contention of the learned counsel for the respondents that the applicants were engaged as coolies which were termed as Thicka Mazdoor. They were never engaged as part time casual labourers of RMS and, their names were not sponsored by the local employment exchange.

It has been stated by the Respondent authorities that on the basis of the orders of this Bench in OA Nos. 191/94, 192/94 and 200/94, the Postmaster General constituted a selection committee to consider afresh the names of all the candidates who applied in terms of the public notice dated 10.1.1994 for the post of Extra Departmental Mail Man. The present applicants also applied in terms of the aforesaid notice. But the claim of the applicants in the present OA was rejected by the Committee since the applicants failed to satisfy the eligibility conditions for being considered for absorption as Gramin Dak Sevak Mail Man. It was observed by the Committee that the applicants were not sponsored by the employment exchange and have been working continuously since 1992 only and, as such, they are not entitled to get preference in terms of the D o P & T O M No. 49014/ 4/ 90-Estt.v (C) dated 18.4.1991. They have further stated

in their reply that the services of the applicants were taken for five hours in a day as Thicka Mazdoor as and when required by the department and they were paid on daily rated basis since 1992. They were issued temporary passes for their movement in the platform and station area in connection with their work as Thicka mazdoor. Further there is no justification on the part of the applicants to be absorbed in Gr. D posts in terms of the DGPT Letter dated 19.2.1988. The Respondents denied that the applicants worked on daily rated basis prior to 7.6.88. The services of the applicants were taken by the department as and when required and that too on and from 1992. The Respondents have categorically denied that the applicants were ever engaged as part time casual labourers and they do not have any right to be absorbed in Gr. D posts nor have they any right to be appointed as Extra Departmental Agent. To bolster their reply, relevant portion of Annexure-R/1 which is a report of three man ^{man} Committee set up by the Postmaster General as directed by this Tribunal is extracted herein below:

Sl.No.	Order no and date	Points clarified therein
3.	Department of personnel & Training OM No.49014/4/90-Estt.(C) dated 8.4.91 Circulated in Dte Comm. No.15-38/91-SPB-I dt. 21.5.91	Casual labourers engaged from a date prior to 7.6.88 and continuing as such on 8.4.91 from the open market other than from Employment Exchange are eligible to be considered for absorption in the Department.
4.	Dte Comm.No.45-24/88-SPB.I dated 17.5.89	(1) The Mazdoors, Casual Labourers, contingent paid

Staff, daily wagers, daily rated Mazdoor, outsiders, working in the department are to be Treated as CASUAL LABOURERS.
(ii) The SUBSTITUTES engaged By the absentees (EDAs) are not CASUAL LABOURERS.

XXXX		XXXXX		XXXXX		OBSERVATIONS	
Sl.No.	name and Address	Date of birth	Edn.Qualif.	Application no.& date	kind of worker as claimed	period of works in the deptt As claimed.	
1	2	3	4	5	6	7	8
8.	Sk.Israil	1.1.64	High Madraswa	No.50 dt.18.1.94	EDSubstitutes 85-87 92-94 Frequently	Since he has not been sponsored by Emp. Exchange and has been Working since April,92 He is not entitled to get Preference as casual Labour in terms of DOP& Trg.OM No.49014/4/90-Estt.(C) dt.8.4.91.	
15.	Kajal Mazumder C/o.Swijahari Mazumdar 18,Kailash Nagar PO. Hridaypur 24-Parg.	23.12.64	Madhyamik	No.179 Dtd.14.1.94	Thiccamajdoor From 92(April) till date	Since he has not been sponsored by the Emp Exchange and has been working since 1992, he is not entitled to get preference as casual labour in terms of DOP&T No.49014/4/90-Estt.(C) dt.8.4.91.	
16.	Subir Kr.Das	13.6.62	HS	No.180 dt.20.1.1994	do from April,92	-do-	
19.	Anup Kr. Das	8.1.65	Class IX	No.321 dt.16.1.94	do from March,92 till date	do	
20.	Debasish Paul	1.1.65	class IX	No.320 dt.17.1.94	do do	do	
21.	Anup Kr.Das	8.1.65	class IX	No.321 dt.16.1.94	do do	do	

8. The tenor of the Government of India orders cited above show that there is insistence of sponsorship of the names from the employment exchange as one of the eligibility clause. Only in very limited case i.e. if casual workers/part time casual workers engaged before 7.5.85/7.6.88 their candidatures for Gr. D regular service/GDS Mail service can be considered provided they are otherwise eligible. Also the part time casual worker have to be employed 480 days in two years prior to 7.6.88.

9. Admittedly, in this case, the applicants were not sponsored through Employment Exchange. No Employment Card has been annexed to prove to the above effect. The document at Annexure-A/2 is only in respect of only one applicant namely

A.K.Das. There are no such cards for the remaining other applicants. The document at Annexure-A/4 clearly shows that the applicants are continuously working only from March, 1992. The document at Annexure-A/5 is the disputed/allegedly fraudulent document whose evidential value is questionable. It is to be noted that all the above documents are submitted by the applicants. The Applicants, despite adequate opportunities, failed to prove that they have completed 480 days in two years prior to 07.06.1988. The Government orders also lay down the eligibility clause of working for at least 480 days in two years as a part time casual worker. There is no scrap of paper available on record that they worked continuously for two years. The burden of proof of completion of the required number of days is on the applicants. This view is fortified by the decision of the Hon'ble Apex Court in the cases of **Range Forest Officer vs S.T.Hadimani** (2002) 3 SCC 25 and **Surendranagar District Panchayat and Anr vs Jeethabhai Pitamberbha**, JT 2005 (9) SC 163.

10. In view of the discussions made above, we do not find any justifiable ground to interfere in this matter. Accordingly, this OA stands dismissed. There shall be no order as to costs.

(Jaya Das Gupta)
Admn. Member

(Justice V.C. Gupta)
Judicial Member