

16

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.1315/2003

This the 12th day of August, 2004.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. All India CP WD (MRM) Karamchari Sangathan (Regd) through its President, Shri Satish Kumar, 4823 Balbir Nagar Extn., Gali No.13, Shahdara, Delhi-110032.
2. Smt. Sheela Devi W/O Shri Sri Bhagwan
3. Kamal Chand S/O Bhagwan Das
4. Rajkumar S/O Sohan Lal
5. Data Ram S/O Karan Singh
6. Anand Kumar S/O Basant Kumar
7. Smt. Suman Sharma W/O S.K.sharma
8. Phool Chand S/O Nanu Jyswar
9. Smt. Nirmal W/O
10. Shashi Ranjan Kumar Singh S/O Suresh Prasad Singh

Applicant No.2 to 10 C/O All India CPWD (MRM) Karamchari Sangathan (Regd.), 4823 Balbir Nagar Extn., Gali No.13, Shahdara, Delhi-110032.

... Applicants

(By Shri Abhishek Maratha for Shri Naresh Kaushik, Advocate)

16

-versus-

1. Union of India through its Secretary,
Ministry of Urban Affairs Employment &
Poverty Alleviation, Nirman Bhawan,
New Delhi-110011.
2. The Secretary,
Ministry of Finance,
Department of Expenditure,
North Block, New Delhi.
3. The Secretary,
Department of Personnel & Training,
Ministry of Home Affairs,
South Block, New Delhi.
4. The Director General of Works,
C.P.W.D., Nirman Bhawan,
New Delhi-110011.
5. Superintending Engineer,
Civil Co-ordination, C.P.W.D.,
R.K.Puram, New Delhi.
6. Superintending Engineer,
Electrical Co-ordination,
R.K.Puram, New Delhi.

... Respondents


(By Shri D. S. Mahendru, Advocate)

ORDER (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A) :

While applicant No.1 is the union of CPWD (MRM) employees, applicants No.2 to 10 were employed by respondents in categories of muster roll/hand receipt/work order as daily wage employees between 1989 and 1994. It is stated that they have been discharging their duties in their respective categories continuously since their initial dates of appointment without any break (Annexure-

- 1). By virtue of this application, applicants seek regularization of services against their respective posts from the respective dates of




their eligibility as per Government orders, statutory instructions and provisions of CPWD Manual with all consequential benefits.

2. At the outset, the learned counsel of respondents took exception that this Tribunal has jurisdiction only in respect of applicant No.2 as she has been working in Delhi and that applicants No. 3 to 10 do not work at Delhi. It has been submitted on behalf of the applicants that DG, CPWD has its permanent office at Delhi and is the authority who can regularise or pass orders of regularisation of any employee of CPWD. As such, this Bench of the Tribunal does have jurisdiction to adjudicate upon the present OA. No satisfactory reply to this contention has come forth from the respondents. As such, this Bench does have jurisdiction over the matter, and we proceed ^{to} ~~consider~~ *this matter on merit.*

3. The learned counsel of the respondents further pointed out that there has been a ban on recruitment of daily rated workers since 19.11.1985 (Annexure R-1 dated 5.8.1999) and as such no vacancies are available for regularisation of the applicants at present. They would be considered for regularisation on availability of vacancies in order of their seniority.

4. The learned counsel of applicants stated that as per Annexure R-1 dated 5.8.1999 respondents had imposed a 10% mandatory cut on non-plan non-salary expenditure during the current year (1999-2000). He further stated that while the applicants have been working in the category of muster roll/hand receipt/work order since 1989-1994, the contention with regard to the ban on



recruitment of daily rated workers is frivolous and not maintainable, as a large number of vacancies have been available in these categories since 1992 and respondents have engaged a large number of similar personnel despite the so called ban dated 5.8.1999. He pointed out that 8982 posts in various categories of work charged establishment were created in 1992 for regularization of muster roll workers. Besides another 1610 posts fell vacant due to handing over workers to NAA in 1993. To these have been added posts which fell vacant for reasons of death, retirement and promotion of regular employees working on the said posts. The learned counsel further pointed out that respondents have not issued any all India seniority list of their employees and have also regularised services of Govind Singh, Birender Singh Rawat, Shambhu Nath, Ram Basant, Devanand Khanna, Mohan Lal and many others in their respective categories despite the so called ban. Orders relating to regularisation of one such person, namely, Govind Singh have been appended as Annexure RA-1 dated 21.6.2002. The learned counsel also relied upon order dated 15.11.2000 in OA No.1550/1999 : **All India CPWD (MRM) Karaamchari Sangathan & Anr. v. Union of India & Anr.** by which those engaged between 1981-1991 were directed to be considered for regularisation of their services on verification of their particulars and in their turn from the dates vacancies were available.

5. We have considered the rival contentions made on behalf of both sides. Respondents have not been able to contradict the



contention relating to creation of 8982 posts in various categories of work charged establishment in 1992 and further addition of 1610 posts which fell vacant due to handing over workers to NAA in 1993, etc. Respondents have also not denied regularisation of the services of persons whose names have been mentioned on behalf of applicants above, despite the so called ban dated 5.8.1999. We further find that the facts of the present case are similar to those of OA No.1550/1999 which was decided on 15.11.2000 with the following directions :

“5. In the circumstances, we feel it is a fit case for disposing of the OA with appropriate directions to the respondents. We do so accordingly. We direct the respondents to verify the particulars given by the applicants and consider regularisation of their services in their turn from the dates vacancies are available in accordance with the rules and instructions on the subject issued by the Government from time to time.....”

6. The present applicants cannot be meted out a discriminatory treatment vis-à-vis applicants in OA No.1550/1999 and those who have been regularised by the respondents themselves despite the ban dated 5.8.1999.


7. In view of the above discussion, this OA is disposed of with the following directions :

- (1) Respondents shall verify from their records the number of vacant posts in the categories of employees to which applicants 2 to 10 belong.
- (2) After verification as above respondents shall consider these applicants for regularisation of their services against the

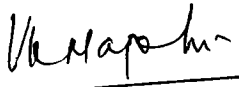


vacant posts subject to their suitability and fulfilment of terms
and conditions as laid down in the recruitment rules, as also
their seniority in the respective Divisions.

There shall be no order as to costs.


(Shanker Raju)
Member (J)

/as/


(V. K. Majotra)
Vice-Chairman (A)

12-8-04