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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1812 OF 2003
M.A. No.1548/2003

New Delhi, this the 28 day of November, 2003

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

1. Ashok,
S/o Shri Babu Lal,
R/O Jhuggi,
Near National Zoological Park,
Mathura Road,
New Delhi.
2. Minter Pal Mittal,
S/o Shri Chandi,
R/O D-6, Zoo Quarters,
Mathura Road,
New Delhi.
3. Joginder,
S/o Shri Padhar,
R/O 28/3, Sector 1,
Pushpa Vihar,
New Delhi-110017
4. Lilu,
S/o Shri Phullu,
R/O Juggi, Kali Basti,
Near Pragati Maidan,
New Delhi.
5. Dharminder,
S/O Shri Sriram,
R/o 10-T Hats,
Minto Road,
New Delhi-110002
6. Ravinder,
S/o Shri Ranbeer Singh,
R/O D-16, Zoo Quarters,
Mathura Road,
New Delhi
7. Kasturi Lal,
S/O Shri Mangla Prasad,
R/O C-41/B-316,
Bhairon Road,
Pragati Maidan Gate No.1,
New Delhi-110003
8. Dharam Pal,
S/o Shri Tika Ram,
R/O D-29, Staff Quarters,
National Zoological Park,
New Delhi.
9. Vinod,
S/o Shri Risal,
R/o D-17, Staff Quarters,
National Zoological Park,
New Delhi-110003

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10. Sarju,
S/o Shri Banwari Lal,
R/o D-7, Staff Quarters,
National Zoological Park,
Mathura Road,
New Delhi-110003 ...Applicants

(By Advocate : Shri B.B.Rawal)

Versus

1. Union of India,
through the Secretary,
Ministry of Environment and Forests,
Govt.of India,
Paryavaran Bhawan,
CGO Complex,
Lodhi Road,
New Delhi-110003

2. The Director,
National Zoological Park,
Mathura Road,
New Delhi

.....Respondents

(By Advocate : Shri M.K.Bhardwaj)

ORDER

Shri R.K.Upadhyaya, Administrative Member:-

M.A.No.1548/2003

These ten applicants have filed this Misc.Application under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules,1987 seeking permission to join together in one single application. The same is allowed.

OA No.1812/2003

This application under section 19 of the Administrative Tribunal Act,1985 has been filed seeking the following reliefs:-

"1) to direct the respondents to consider the applicants for the posts advertised by the respondents in the Employment News in preference to freshers and juniors as the applicants fulfil all the requisite qualifications and experience advertised in the Employment News and appoint them on the posts.

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ii) award exemplary cost for this application with a further request to pass any other order/orders or direction/directions or grant any other relief/reliefs as deemed fit and proper in the light of the facts and circumstances of the case."

2. The learned counsel of the applicants state that the applicants have been working as Casual Labourers since 1985. All of them are eligible for being declared to have attained temporary status but no such order has been passed to this effect. They had also not been provided the work for which they were engaged. On the other hand, the vacancies were filled up by freshers. The claim of the applicants is that the vacancies now advertised are for filling up regular Group 'D' posts. The applicants who have rendered several years of service should have been considered against those posts. The posts advertised in the Employment News dated 21-27.6.2003 related to 1. Assistant Keeper-3 Nos., 2. Gangman-2 Nos; 3. Mahout- 1 No. and Zoo Guard- 1 No. The learned counsel of the applicants stated that out of these four categories of posts, the applicants performed, duties in respect of three categories. They have not worked as Mahout but so far as the other three categories are concerned, they have performed duties in terms of said advertisement. The learned counsel stated that the action of the respondents was challenged in the past also and this Tribunal in CP No.432/2001 along with other contempt petitions in OA No.1724/2000 decided on 29.8.2002 (Annexure-A2) had observed as follows:-

"20. In the result and having regard to the reasons recorded above, we do not find any contempt, contumacious or wilful

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disobedience by the respondents of the directions contained in all these OAs. Moreover, a fresh cause of action cannot be gone into in a contempt proceeding as held by the Apex Court in J.S. Parihar Vs. Ganpat Duggar & Ors., JT 1096 (9) SC 611. The CPs and MAs are accordingly dismissed. Notices issued to the respondents are hereby discharged. However, this will not preclude the applicants to assail their surviving grievance in the appropriate forum, in accordance with law. No costs."

Hence this OA has been filed.

3. The learned counsel also invited attention to the averments made in paras 4.4 and 4.5 of the OA wherein it has been stated that the past conduct of the applicant should be taken into account. The respondents have been making requisitions to the Employment Exchange for employment of the freshers whereas the applicants who have rendered several years of service are not being offered work or are being regularised. Our attention has also been invited to the decision of this Tribunal in the case of Suresh & Others Vs. UOI & Ors (OA No.953/91 decided on 21.1.92 reported in 1991 (2) SLJ CAT PB 110. The learned counsel states that the Tribunal has laid down the principle of law that all the applicants who were daily rated casual labours should be given temporary status and regularised in their turn and the work for which they were engaged. No other persons either from the market or from the Employment Exchange or through any contractor should be taken and if their work was given on contract basis, the contract should be terminated and the applicants should be offered the work. The grievance of the applicants is that the

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respondents are going to fill up the regular vacancies by freshers. Therefore, the reliefs sought for be allowed.

4. The learned counsel of the respondents stated that whole application is misconceived and deserves to be dismissed in limine. According to the respondents, there is no cause of action. The posts were advertised which require experience of the posts so-advertised. The advertisement itself states that "the application should be sent in the prescribed proforma to the Box No.231, Employment News, East Block No.4, R.K.Puram, New Delhi so as to reach by 10th July,2003 positively. Applications received after 10th July,2003 will not be considered". The advertisement further provides the proforma. According to the learned counsel of the respondents, if the applicants apply as per the advertisement and are found eligible, they will be considered. According to the instructions given to him, the selection process is still not finalised and nobody has been given appointment pursuant to the advertisement. He fairly stated that there was no denial of the general principle that the working casual labourers should be given preference in comparison to freshers and juniors. According to the instructions given to him, all the applicants were not working on the last date of submitting applications i.e., 10.7.2003 with the respondents. Therefore, they might have applied as per the terms of the advertisement. If they are found having eligibility qualification, they would be considered along with others.

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5. The learned counsel in the rejoinder reiterated his claim made in the original application and stated that he has reason to believe that the applications might have been destroyed and they would not be considered for appointment on regular post of Assistant Keeper, Gangman, and Zoo Guard.

6. The arguments of learned counsel of both the parties have been heard and the material available on record have been considered.

7. The only relief claimed by the applicants is for direction to respondents to consider them for the posts advertised by the respondents in the employment news in preference to freshers and juniors. There is nothing on record to suggest that the applicants had actually performed the duties as Assistant Keeper, Gangman and Zoo Guard. They might have performed duties as casual labourers in different sections of the Zoo but at this stage it is not desirable to express any opinion on this aspect. If the applicants had actually applied for their consideration against those posts, there is nothing to disbelieve the assertion of the respondents that the applicants will be considered along with others. Even though strictly speaking, it will not be desirable to interfere in the selection process at this stage. But it is desirable that the respondents should take extra precaution and care while considering the cases of the applicants. Of course, there is nothing on record to suggest that the averments made by the learned counsel of the applicants during the course of the argument that the

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applications of the applicants have been destroyed but in the interest of justice, the following directions are issued:-

1. In case the selection process for the posts of Assistant Keeper, Gangman and Zoo Guard have not been finalised and is still in the process of consideration, the applications of the applicants in this OA may be kept in safe custody.

2. In case the applicants' applications are not available with the respondents as alleged by the learned counsel of the applicants, the respondents may entertain their applications also if the same is accompanied with an affidavit and evidence to support that they had actually submitted their applications earlier. For this purpose, the applicants may submit fresh applications along with affidavits and evidence of submitting applications earlier within one week from the date of receipt of a copy of this order.

3. The only benefit which can be extended by this Tribunal in favour of the applicants is that while considering the cases of the applicants, the respondents may allow them age relaxation to the extent of actual service rendered by them as available on record. Except this relaxation, no other relaxation is to be given to the



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applicants for their consideration for the posts of Assistant Keeper, Gangman and Zoo Guard.

8. In the result, this OA is disposed of without any order as to costs as per directions in the preceding paragraph .

(Signature)
28.11.03

(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

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