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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2813 OF 2003
M.A. No.2479 OF 2003

New Delhi, this the 29th day of June, 2004

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

1. Smt. Murthi W/o Sh. Narsi Dass,
R/o H-28, Handia Mohalla Bara Bazar,
Lal Kurti, Meerut Cantt.

2. Smt. Pramila W/o Sh. Puran Chand,
R/o H- No.419 Raj Mohalla Top Khana,
Meerut Cantt.

(Both are Casual Labourer conferred with
Temporary Status in 40 Coy ASC, Supply,
Type Meerut Cantt.)

.....Applicants

(By Advocate : Shri V.P.S. Tyagi)

Versus

1. Union of India (Through Secretary)
Ministry of Defence,
South Block, New Delhi.

2. The Adjutant General
AG's Branch org4/Civil (b)
Army H.Q. DHQ,
P.O. New Delhi-110011.

3. The Director General
Supply and Transport (ST-12)
QMG's Branch, Army Head - Quarters,
DHQ P.O. New Delhi.

4. The Controller of Defence Accounts (Army)
Belvadir Complex,
Meerut Cantt.

5. The Commandant
40, Supply Coy ASC Type CC,
Meerut Cantt.

.....Respondents

(By Advocate : Shri Rajinder Nischal)

ORDER (ORAL)

This Original Application under Section 19 of
the Administrative Tribunals Act, 1985 has been filed
by Smt. Murthi W/o Shri Narsi Dass and Smt. Pramila
W/o Shri Puran Chand claiming the following reliefs:-

"(a) That the Hon'ble Tribunal may
graciously be pleased to direct the
respondents to regularize the
applicants by absorption in group
'D' post from the same dated they had

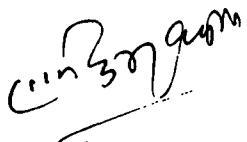
Ch. Rajinder Nischal

regularized the services of the applicants junior with all consequential benefits & seniority.

- (b) To direct the respondents to reckon the seniority of the applicants w.e.f. 10.09.1993 from the date DOPT scheme came into effect with arrears of pay and all the benefits accruing to the applicants under the said scheme.
- (c) To pass any order or directions as deemed just and proper in the facts and circumstances of the case.
- (d) Award cost of this application."

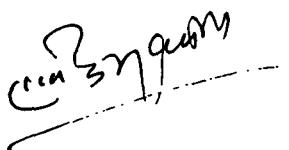
2. It is stated that the applicant No.1 belongs to Scheduled Caste (SC) and applicant No.2 belongs to Other Backward Community (OBC). Applicants were appointed on 1.10.1988 and 2.2.1990 respectively as casual labourers through Employment Exchange. The applicants have been conferred temporary status w.e.f. 10.9.1993 as per DOP&T Scheme of 1993. The claim of the applicants is that though they were engaged as casual labourers but they were performing the duties of regular Group 'D' employees. The juniors to the applicants S/Shri Kamal Singh, Kali Ram, Anil Kumar Chauhan and Naresh Kumar have been regularised w.e.f. 3.7.2003. It is, therefore, urged that the reliefs as claimed should be granted with all consequential benefits.

3. The respondents have opposed the present Original Application. In the reply filed, it is stated that 13 vacancies of Chowkidars were released by Army Headquarters vide letter dated 13.3.2003. Subsequently, Army Headquarters had directed that these vacancies should be used for regularisation of



the cases of applicants in pursuance of the Court orders only. Therefore, 8 vacancies have been filled up by regularising the casual labourers having temporary status in compliance of Hon'ble High Court order dated 17.1.2002. The remaining 5 vacancies are still unfilled and surrendered to Army Headquarters on 4.7.2002. For the post of Chowkidar minimum educational qualification is 5th standard pass. It is stated by the respondents that the applicants do not have the requisite educational qualification. Therefore, they could not be regularised in Group 'D' posts. Respondents have admitted that regularisation has been made in pursuance to the courts orders.

4. The learned counsel of the applicants stated that the respondents being model employer should have considered the case of the applicants for regularisation when the juniors were being considered. These poor persons should not have been compelled to approach the Court of law for redressal of their justified claims. In the rejoinder, it has been stated that the applicant No.1 Smt. Murthi who Belongs to Scheduled Caste community has passed 5th standard as per copy of the certificate dated 15.12.1995 (Annexure AY in rejoinder). The learned counsel of the applicants at the time of hearing submitted that the rejection of regularisation of the applicant No.1 for want of educational qualification is apparently bad in law. She holds educational qualification. The respondents may verify the same

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and consider the case of the applicant No.1. As a matter of fact, she was never asked to produce any educational qualification certificate before. Regarding the case of applicant NO.2, it is stated by the learned counsel of the applicants that she should be regularised against any post where educational qualification is not necessary.

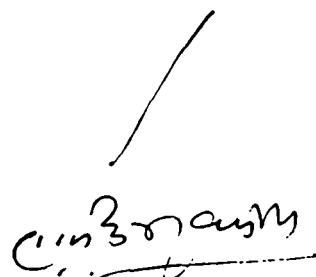
5. The facts as stated by the learned counsel of both the parties as well as those available on records have been considered carefully. In view of the fact that the juniors to the applicants have been regularised against Group 'D' posts, it was desirable that the cases of the applicants were considered by the respondents. However, since they have not done so, it is directed that the respondents should consider the cases of the applicants for regularisation against any Group 'D' posts including the posts of Safaiwala and labourer (Mazdoor) which are stated to be still available with the respondents. In any case, the respondents should consider the educational qualification of applicant NO.1 Smt. Murthi, if she is otherwise eligible. She should be given regularisation from the same date from which date her juniors have been regularised. The applicant No.2 should be considered for any vacancy for which she is eligible. It is the case of the applicants that similar persons have been regularised ignoring the claims of the applicants merely on the ground that the applicants have not earlier approached the

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Court for redressal of their grievances. The practice adopted by the respondents has to be deprecated. As a model employer, the claims of all the employees should be treated at par. The seniority should be accorded, if the applicants are otherwise eligible and suitable. The claim of seniority as made by the applicants, if they are regularised, be counted from the date of regularisation along with consequential benefits.

6. In view of the directions in the preceding paragraphs, the respondents are directed to take a decision within a period of three months from the date of receipt of a copy of this order. In case the claims of the applicants are still not admissible for any reason, the respondents will pass a reasoned and speaking order under intimation to the applicants and the applicants will be at liberty to challenge that order in accordance with the law, if so advised.

7. This Original Application is accordingly allowed without any order as to costs.



R.K. Upadhyaya

(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

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