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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.3 OF 2003

New Delhi, this the 21st day of October, 2003

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

1. Chander Pal  
S/o Shri Pholi Singh,  
R/o Vill. Aurangpur,  
Post Dhankaur,  
Distt. Gautam Budh Nagar (U.P.).

2. Niranjan  
S/o Shri Ramji Lal,  
R/o Jhuggi No.361, Block-28,  
Trilok Puri, Delhi.

.....Applicants

(By Advocate : Shri Shakti Chand Sharma for  
Shri Jitender Kumar)

Versus

1. E.S.I.C.  
Through its Director General,  
Panchdeep Bhawan, Kotla Road,  
New Delhi.

2. Director (Medical) Delhi,  
E.S.I.C.  
Basai Dharapur, New Delhi.

3. Director (Medical),  
E.S.I.C. Hospital,  
Sector-24, Noida (U.P.).

.....Respondents

(By Advocate : Ms. Anant Mala Poddar for Mrs.Renu  
George)

ORDER (ORAL)

This application has been filed by the applicants under Section 19 of the Administrative Tribunals Act, 1985 seeking a direction to the respondents to re-engage them and also give them consequential benefits including regularisation and back wages.

2. The applicants initially filed OA No.411/1992, which was decided by an order dated 10.5.1993. This Tribunal had directed that "The respondents shall not recruit juniors to the petitioners or freshers so long

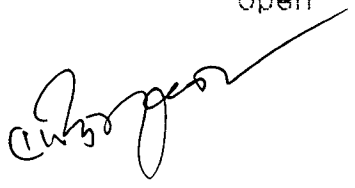
*Chander Pal*

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the question of regularisation of the petitioners' services is not decided". Subsequently, on 27.9.1993 both the applicants were involved in a criminal case registered vide FIR No.147/93. The learned counsel states that the applicants were dis-engaged. Thereafter OA No.323/1995 was filed by applicant No.1 wherein this Tribunal stated that "If the applicant eventually is acquitted in that case, it will be open to him to file a petition to the respondents for re-engagement, on receipt of which the respondents may examine the same in accordance with the extant Rules and instructions on the subject."

3. Learned counsel of the applicant further invited attention to the order dated 15.3.2001 whereby the applicants have been acquitted for want of evidence from the criminal case. It is claimed that the applicants made fresh representations for their re-engagement. There was no response to the representations of the applicants. They filed another OA No.170/2002 which was disposed of by order dated 18.1.2002 directing the respondents to dispose of the representations preferred by the applicants. In pursuance of that order, the impugned order dated 16/19.3.2002 has been passed. The respondents in that order stated as follows:-

"The applicants, in the present applications, has prayed for their re-engagement in service with original seniority with all back-wages, etc, whereas the direction of the Court is that it will be open to the applicants to file a petition to



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the respondents for re-engagement, on receipt of which the respondents may examine the same in accordance with the extant Rules and instructions on the subject. I have to say that the cleaning services of ESI Hospital, Noida has already been entrusted to Special Agency since 1.3.2001 and no casual/regular sweeper is presently engaged in ESI hospital, Noida.

In the given circumstances, I have applied my mind on the entire facts and circumstances of the case and hold that the request of Mr. Chander Pal and Mr. Niranjana for their re-engagement in service can not be acceded to as there is no vacancy or expected vacancy of sweeper in the ESI hospital, Noida, against which the applicants can be considered for re-engagement as directed in order dated 18.4.1996."

4. The learned counsel of the applicant now states that if the work earlier performed by the applicants has been given to the Special Agency since 1.3.2001, the applicants may be given some alternative job under the control of the respondent No.2. According to him, there are several establishments in Noida as well as Delhi where the applicants could be given some suitable employment, keeping in view their past experience and satisfactory work.

5. The learned counsel of the respondents have opposed the prayer of the applicants. Attention was invited to the reply filed in which it has been stated that "applicants herein were working as casual sweepers in ESI Hospital, Noida. As per FIR filed in the Police Station, Sector-24, Noida, they picked a quarrel with Mr. Giri Raj Prasad Meena, a regular employee of ESI Hospital, Noida on 27.9.1993. Thereafter, they discontinued attending their work, at their own."

C. Singh

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6. The learned counsel further stated that it is not that the applicants were regularly appointed on regular posts. They are daily wage workers on casual basis. They were not recruited following the requisite procedure. Merely because they had worked for some time with the respondents, they need not be regularised on regular vacancies.

7. The applicants, in their rejoinder, have stated as follows:-

"2.....the alleged incident of quarrel was dated 27/9/1993 till then they worked with the respondent No.3 and thereafter their services were disengaged due to registration of the FIR No.147/93 P.S. Sector-24, Noida. It is denied that every efforts were made by the ESIC to engage the applicants as a regular employees but they were not found suitable for selection on regular basis. The interview was held on 13/7/94 for regularisation wherein the applicants were though called but during that period the services of the applicants were disengaged due to the said FIR No.147/93 and therefore the name of the applicants were not considered."

The other contentions in the OA have been reiterated in the rejoinder.

8. After hearing the learned counsel of both the parties and after perusal of the records, it is clear that the services of the applicants as casual workers were discontinued after they were involved in the said criminal case on 27.9.1993. There is no denial from the applicants that they stopped joining their work as contended by the respondents. Without going into that

*C. B. Singh*

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controversy, it would suffice to say that the applicants are not entitled to any backwages or regularisation merely because some of the persons have been regularised. However, in the interest of justice, it is desirable that if the respondents, particularly respondent No.2, have any work which could be entrusted to the casual workers and if the applicants apply and found suitable, they may be considered along with others. So far as the relaxation of age is concerned, they may be allowed to the extent of casual services rendered by them earlier. The applicants are not entitled to any other benefit as claimed by them.

9. In view of the observations made in the preceding paragraph, this OA is disposed of without any order as to costs.



(R.K. UPADHYAYA)  
ADMINISTRATIVE MEMBER

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