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Central Adminisrative Tribunal
Principal Bench

O.A.No.19/2003
M.A.No.20/2003
M.A.No.345/2003

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 3rd day of July, 2003

1. Shri Sripal
s/o Shri Bhim Singh
r/o B-132, Gharoli Dairy Farm
Kondli, Delhi.

2. Kapil Dev
s/ Shri Baleshwar Paswan
r/o R-278, Kailash Puri
West, Gali No.9-C
Palam Colony
New Delhi.

3. Vinay Paswan
s/o Shri Mahadev Paswan
r/o R-166-B, Ghali No.9-B
Kailash Puri West
New Delhi.

4. Jagdish Prasad
s/o Sh. Jangli Parsad
r/o B-438, West Vinod Nagar
Mandoli
Delhi. ... Applicants
(By Advocate: Sh. S.K.Gupta, proxy of Sh. B.S.Gupta)

Vs.

1. Union of India
through Secretary
Ministry of Personnel
Public Grievances & Pension
North Block
New Delhi.

2. The Director of Estates
Directorate of Estates
4th Floor, C-Wing, Nirman Bhawan
New Delhi.

3. Deputy Director of Estates (Estt.)
Directorate of Estates
4th Floor, C-Wing, Nirman Bhawan
New Delhi. ... Respondents
(By Advocate: Sh. Rajinder Nischal)

O R D E R(Oral)

By Shri Shanker Raju, M(J):

MA 20/2003 for joining together is allowed.

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2. Applicants have impugned respondents' orders dated 25.11.2002 and 24.12.2002 discontinuing their services as Casual Labourers, and also rejecting their request for regularisation. Applicants have sought quashment of these orders with consideration for regularisation as per DoPT's OM dated 7.6.1988, and their further re-engagement.

3. Applicants, who are OBC and on being sponsored by Employment Exchange, were engaged as Casual Labourers by the respondents. Their services have been dispensed w.e.f. 10.12.1992. However, applicants were re-engaged on 15.5.1997. On filing OA 2859/1992 directions have been issued to consider the applicants for re-engagement in preference to outsiders and freshers and to consider their cases for regularisation as well.

4. Applicants No.2 and 3 were re-engaged on 20.4.1998 and had worked for more than 240 days in the years 1999 to 2002 intermittently with artificial breaks. Subsequently, their services have been dispensed w.e.f. 24.12.2002, giving rise to the OA 3278/2002 where by an order dated 20.12.2002, OA was ordered to be treated as representation and directions have been issued to respondents to dispose of the same by a speaking order.

5. As their request has been turned down by the impugned orders, giving rise to the present OA.

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6. Sh. S.K.Gupta, learned counsel for applicants, at the outset, stated that in the light of the decision in OA 104/2002 in Ashok Kumar & Others v. Union of India & Others, decided on 29.1.2002 by a Co-ordinate Bench keeping in view of the Clause-10 of the DoPT's Scheme of 10.9.1993 as well as having regard to the OM dated 7.6.1988 and instructions of the Government dated 26.10.1984 on having completed two years service, applicants are entitled to be considered and absorbed against Group 'D' post. It is contended that applicants are, in all fours, covered by the aforesaid ratio.

7. In so far as re-engagement is concerned, it is contended, through an MA 345/2003, that the respondents have still availability of work on casual basis, which can be offered to the applicants.

8. On the other hand, respondents' counsel, Shri Rajinder Nischal, vehemently opposed the contentions and stated that in so far as the DoPT's Scheme of 10.9.1993 being declared as not an ongoing Scheme, applicants cannot be considered for regularisation. However, he makes a statement that he does not dispute the provisions contained in OM 7.6.1988 as well as instructions dated 26.10.1984 but stated that regularisation would depend upon availability of vacancies and re-engagement would depend upon the availability of work.

9. I have carefully considered the contentions of the parties and perused the material on record. In the light of the fact that the issue

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regarding regularisation under DoPT's Scheme of 7.6.1988 is no more res-integra, the ratio in OA 104/2002, in all fours, covers the present case as well. Applicants who are undisputedly completed 240 days in two consecutive years, subject to their suitability and as per the rules and instructions, are entitled to be considered for regularisation and absorption against the Group 'D' posts. However, this would be subject to the availability of Group 'D' posts.

10. In so far as the re-engagement is concerned, if the respondents have work of the similar nature as performed by the applicants earlier, in preference to the outsiders, they should be considered by the respondents for re-engagement.

11. Having regard to the aforesaid, OA is disposed of with directions to the respondents to consider the applicants' case for regularisation in the light of the DoPT's OM dated 7.6.1988 as well as instructions dated 26.10.1984 within a period of three months from the date of receipt of a copy of this order. However, this shall be subject to availability of Group 'D' posts. In so far as the re-engagement of the applicants is considered, if respondents have work of the similar nature as performed by the applicants, they shall be considered for such re-engagement in preference to their juniors and outsiders. No costs.

S. Raju

(Shanker Raju)
Member(J)

/rao/