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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.140/2003

New Delhi, this the 24th day of September, 2003

Hon'ble Shri Shanker Raju, Member (J)

1. Shri Naresh Kumar aged 22 years
s/o Shri Sunno Ram
r/o Village Shishta
PO Thore Ka Rana
Teh. Sadabad, Distt. Mathras (UP)
2. Shri Uday Singh aged 22 years
s/o Shri Ram Khiladi
Vill. Undua near Aligarh
Distt. Hathras (UP)
3. Shri Arun Kumar aged 26 years
s/o Shri Sriganesh
Vill. Bhiipur
PO Bara Kalwadi
Distt. Muzafarpur (Bihar)

..Applicants

(By Advocate: Shri Surinder Singh)

Versus

1. Union of India through
the Defence Secretary
Ministry of Defence
DHQ PO, New Delhi-11
2. Director General of Supply & Transport
Army Headquarters
DHQ PO, New Delhi-11
3. Commanding Officer
227, Coy ASC (Sup) Type-B
Safdarjung Road
New Delhi-3

..Respondents

(By Advocate: Ms. Avinash Kuar)

O R D E R

Applicants through this OA have sought quashment of verbal order of the respondents dated 16.11.2002 as well as regularisation to Group 'D' post reckoning number of paid holidays towards 240 days in a year for eligibility.

2. From the official records, as produced by the respondents, it transpires that the applicants are short

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of 240 days for their eligibility to be considered for regularisation under DoP&T Scheme dated 26.10.1984 and 7.6.1988.

3. Learned counsel of the applicants contends that while computing 240 days of a casual worker in a year, Sundays and holidays are to be reckoned with. This has been held by the Tribunal in Shakuntala Devi v. Secretary, Deptt. of Food, Ministry of Food & Civil Supplies, (1991) 18 ATC 142 (II) and followed in OA-334/2001 - Titu Ram & others v. Union of India & others, decided on 12.9.2001. On the strength of the aforesaid, it is stated that the applicants' working days by including paid holidays, make the working period as 240 days in two consecutive years to be considered for regularisation.

4. On the other hand, respondents' counsel, Ms. Avinash Kaur vehemently opposed the contentions and stated that the applicants had not completed 240 days in two consecutive years, hence are not entitled for regularisation. It is also stated that at present there are no vacancies in Group 'D' for regularisation of the applicants.

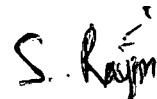
5. I have carefully considered the rival contentions of the parties. Insofar as the computation of 240 days is concerned, it cannot be on calender basis. If in a year, month-to-month, the applicants have completed 240 days and being sponsored through the Employment Exchange and conforming to other eligibility criteria laid down in

DoP&T Schemes of 26.10.1984 and 7.6.1988, the guide-lines being still in vogue and are to be followed as per DoP&T scheme of 10.9.1993 as a future course of action, they have a right to be considered for regularisation against Group 'D' post.

6. A coordinate Bench of this Tribunal in OA-1806/2001 - Muni Lal & others v. Union of India & another, decided on 1.5.2002, relying upon the decision in Shakuntala Devi (supra), ordered inclusion of paid holidays under the continuous spell of 12 months for reckoning 240 days. Accordingly, by applying the above ratio, the applicants fulfil the eligibility criteria of 240 days in two consecutive years.

7. Having regard to the above, OA is disposed of with directions to the respondents to consider the applicants for regularisation in accordance with the Schemes referred to above, if they conform to the eligibility criteria in accordance with rules and instructions. However, this shall be subject to the availability of vacancies in Group 'D' post.

8. Insofar as the oral termination is concerned, it is observed that as and when work of a casual nature is available with the respondents, the claim of the applicants for re-engagement shall be considered in preference to freshers/outsiders. No costs.



(Shanker Raju)
Member (J)

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