

Central Administrative Tribunal
Principal Bench

OA No.224/2003

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New Delhi this the 9th day of July, 2004

Hon'ble Shri V.K. Majotra, Vice Chairman (A)
Hon'ble Shri Shanker Raju, Member (J)

1. Girish Pal
2. Shambhu Rawat
3. Rakam Singh
4. Dhiraj Singh
5. Harak Singh
6. Ganga Ram
7. Lal Babu
8. Gopal Singh
9. Bhag Chand
10. Rohtas

-Applicants

(All C/o Girish Pal,
S/o Sh. Dammi Lal,
R/o L-139, Saurav Vihar,
Jaitpur Road, Badarpur,
New Delhi-110 044)

(By Advocate Shri Jagdev Singh, proxy for Dr. Surat
Singh, Advocate)

-Versus-

1. Union of India, through
Secretary, Department of
Consumer Affairs, Ministry of
Civil Supplies, Consumer Affairs
and Public Distribution,
Krishi Bhawan, New Delhi.

2. The Director (Admn),
Department of
Consumer Affairs, Ministry of
Civil Supplies, Consumer Affairs
and Public Distribution,
Krishi Bhawan, New Delhi.

-Respondents

(By Advocate Shri J.B. Mudgil)

ORDER (ORAL)

Mr. Shanker Raju, Member (J):

Through this OA applicants have sought benefit
of past service for all purposes.

2. Applicants initially engaged as casual
labourers were accorded temporary status and later on
were regularised against Group 'D' post. Their claim
is for grant of seniority and other benefits from the

date of their initial appointments by resorting to the decision of the Apex Court in the Direct Recruit Class II Engineering Officers Association v. State of Maharashtra, 1990 (2) SCR 900.

3. On the other hand, respondents in their reply contend that the decision of the Single Bench of this Tribunal in Ramji Lal v. Union of India decided on 26.4.2002, where the continuity of the service has been given to the casual workers regularised subsequently. In LPA No.462/2002 decided on 1.5.2002 the decision of the Single Bench has been set aside. It is contended that applicants were casual workers who have been granted temporary status and on accrual of vacancies were regularised. The grant of benefit of regularisation from the initial engagement cannot be countenanced and the decision of the Apex Court (supra) is not applicable.

4. However, it is stated that service rendered on temporary status by casual workers since 1.9.1993 to the extent of 50% is to be counted towards pensionary benefits in view of the OM of DoPT dated 10.9.1993.

5. We have carefully considered the rival contentions of the parties and perused the material on record. A casual labourer does not hold a substantive post. His appointment is not regular. It is only from the date of acquirement of temporary status. He is appointed against Group 'D' post thereafter. The date of appointment on regular basis and seniority would

commence from that date. The decision in Direct Recruits Class II Engineering Officers' case (supra) would have no application in the present context.

6. However, in so far as qualifying service is concerned, the High Court of Andhra Pradesh in **General Manager v. Sheikh Abdul Khoda**, 2004 (2) ATJ HC (AP) 23 held that on regularisation of a temporary status casual labour his full service from temporary status to regularisation is to be counted for pension and half service before temporary status, though DoPT OM dated 10.9.1993 provides counting of half service from temporary status as qualifying service. However, in view of the decision of the High Court of Andhra Pradesh (supra) the OA is disposed of, though declining grant of regularisation from the date of initial engagement of applicants as casual labourers, the seniority shall commence from their regular appointments in Group 'D', yet the qualifying service shall be computed by the respondents in the light of the decision in Abdul Khoda's case (supra).

7. With these observations OA stands disposed of. No costs.

S. Raju

(Shanker Raju)
Member (J)

'San.'

V.K. Majotra

(V.K. Majotra)
Vice-Chairman (A)

9.7.04.