

Department of Social Welfare
Govt. of NCT of Delhi
GLNS Complex, Delhi Gate, New Delhi-02
[Administration Branch-II]

F.No.44(02)/2019/DSW/Estt/

Dated:

ORDER

Sub: **In the matter of Smt. Geeta Rani & Ors. V/s GNCTD & Ors in OA No.2870/2013.**

The Hon'ble CAT has passed an order dated 17.12.2018 in OA No.2870/2013 in the matter of Smt. Geeta Rani & Ors V/s GNCTD & Ors. The para 4 & 5 of the judgement/order is reproduced as below:-

Further, we find that no reply has been given to the legal notice served by the applicants. We make it clear that the respondents must explain as to why persons, who were appointed subsequent to the date of appointment of applicant, have been considered for regularization but regularization of the applicant, who was appointed earlier to the persons, cited in the legal notice, has not been considered. Hence, the respondents are directed to pass a detailed and speaking order on the legal notice given by the applicant within a period of 30 days from the date of receipt of this order. With the above direction, OA stands disposed of.

In the legal notice dated 15.06.2013 addressed to Director (Social Welfare), the applicants has prayed to consider and regularize their services immediately from the date of regularization of junior and similarly situated persons with all the consequential benefits.

As per order of Hon'ble Court, the legal notice dated 15.06.2013 given by the applicant, has been examined looking into the available records:

The applicants were engaged as part time cook to meet the exigencies/requirement of work in Homes/institutions and to supplement the services of regular employees. The applicant namely Smt. Geeta Rani has been engaged as part time cook w.e.f. 06.02.1989 and Smt. Bimla has been engaged as part time cook w.e.f. 31.01.1989. The applicants have been granted temporary status under the scheme "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Govt. of India, 1993" w.e.f. 10.09.1993 in compliance of Hon'ble Court order dated 27.08.1998 in OA No.210 of 1998 and CP No.347 of 1993 in the matter of Pradeep Kumar & Ors. V/s Govt. of NCT of Delhi & Ors.

The applicants are performing duty of 8 hours on all working days and are given status of temporary employees. The applicants are given compensatory holidays in case they are required to perform duties on holidays or extra hours.

It is observed that the following directions were given under scheme "Casual Labourers (Grants of Temporary Status and Regularization) Scheme of Govt. of India, 1993":

- i) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.
- ii) Conferment of Temporary status does not automatically imply that the casual laborers would be appointed as a regular Group 'D' employees within any fixed time frame. Appointment to Group 'D' vacancies will continue to be done as per the extant Recruitment Rules, which stipulate preference to eligible ED employee.
Thus appointment to Group 'D' vacancies had to be done as per extant RRs which stipulated preference to eligible.

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It is further observed stated that Sh. Virender Prasad Chaurasia and Sh. Lalit Kumar were part time employee and they are regularized on the directions of Hon'ble Court. The same case cannot be applied to workers who have been granted temporary status under the Scheme "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993" w.e.f. 10.09.1993 as the two categories of employees are different and cannot form part of one seniority list.

The Department has not disobeyed the orders of Hon'ble CAT as the applicants were granted Temporary status as per Hon'ble CAT order dated 27.08.1998. As per directions of Hon'ble CAT order dated 13.08.2007, the regularization of the applicants was to be considered as and when vacancies are to be filled up on regular basis but no exercise to fill up vacancies on regular basis could be taken up thereafter so there was no question of considering the regularization of the applicant. Any regularization done were on account of specific court orders in such cases.

Further as per instructions issued vide OM No.AB-14017/6/2009-Estt(RR) dated 30.04.2010 by DOPT, there will now be no recruitment in Group 'D' post as per the recommendations of 6th CPC.

It is also observed that the Law department, GNCTD has advised in the matter of Shankar Mali & Ors V/s GNCTD in OA No.893/2012, that:

"As per O.M. No. AB-14017/6/2009-Estt(RR) dated 30.04.2010, there will be no further recruitment in Group 'D' posts in the Government. Hence it seems no regular appointments are being taken up by various Departments, including the Administrative Department, of the GNCTD in Group 'D' posts. Hence, the view of this Department, the Administrative Department needs to consider the claim of the applicant for appointment only in case the regular appointment process for group 'D' posts takes place, which at present is banned by the abovesaid DOPT circular."

This is further corroborated in the Para 2 mentioned in DOPT, OM F.No.49014/3/2014-Estt(C) dated 16.10.2014 which is reproduced as under:-

"Following the acceptance of the recommendations of the 6th CPC, all Group D posts have been upgraded to Group C posts. Recruitment to erstwhile Group 'D' posts placed in Group 'C', PB-1, Grade Pay 1800/- (non technical as MT staff) is now made only through Staff Selection Commission and minimum educational qualification for appointment is Matriculation or ITI pass. Regularization of CL-TS therefore cannot be done by the Ministries/Department on their own and requires relaxation of para-8 of the Appendix to the OM dated 10.09.1993."

Now as per letter F.No.2/6/RR/2013/SW/1912 dated, 17.10.2013 issued by Services Department, GNCTD regarding Model Recruitment Rules for the posts of Multi Tasking Staff (MTS) Group- 'C' in PB-1 (Rs.5200-20200) + Grade Pay Rs.1800), the process of amendment in Recruitment Rules for the post of MTS in this department is under process and any recruitment on regular basis to these posts will be according to the RRs as and when notified.

In view of above facts, the applicants cannot be regularized considering the recommendations of 6th CPC and they will continue to be governed under the scheme "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Govt. of India, 1993".

This issues with the approval of Director(Social Welfare).


Deputy Director(Admn.)

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Copy to:

1. PS to Secretary(SW), GNCTD.
2. The Petitioners in OA No.2870/2013.
3. DD(Litigation) to inform Govt. Counsel.
4. System Analyst to upload on website.
5. Guard File.

Dated:

23 JAN 2019


Deputy Director(Admn.)