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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.546/2002

New Delhi this the 9th day of August, 2002.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Shri Mahendra Singh Negi
S/o Sh. J.R. Negi,
Project Assistant,
Indian Institute of Petroleum,
Dehradun.
(As per memo of parties)

-Applicants

(By Advocate Shri B.S. Mainee)

-Versus-

Union of India through:

1. The Secretary,
Ministry of Science & Technology,
1, Rafi Marg,
New Delhi.
2. The Director General,
Council of Scientific &
Industrial Research,
1, Rafi Marg,
New Delhi.
3. The Director,
Indian Institute of Petroleum,
Dehradun.

-Respondents

(By Advocate Shri Manoj Chatterjee)

O R D E R

By Mr. Shanker Raju, Member (J):

Applicants through this OA have sought extension of benefit of the Scheme for regularisation/absorption as well as accord of temporary status. By an interim order dated 26.2.2000 status quo has been ordered to be maintained.

2. Applicants are working under a constituent unit of Council of Scientific and Industrial Research (CSIR, for short) in Indian Institute of Petroleum (IIP, for short). Some of the applicants have approached this court in OA-1292/99 and by an order dated 17.11.99 following directions have been issued:

"(i) Respondents shall prepare a Scheme on the pattern directed by the Apex Court and shall consider absorption of the applicants in terms of law against regular vacancies and when they arise.

(ii) If the respondents have vacancies/jobs to offer of the nature the applicants are doing the latter shall be given preference to over freshers and new comers. Depending upon the requirements, services of the applicants shall be utilised in other projects.

(iii) Respondents shall consider offering opportunities alongwith others to those of the applicants who are eligible and have requisite qualifications for the jobs advertised.

(iv) No costs."

3. In pursuance of the directions IIP Casual/Contractual Workers Absorption Scheme, 2000 had come into being for regularisation of casual workers who had completed 240 days/206 days (in case of offices observing five day week) in a year upto 17.11.99 as one time measure. A seniority list in respect of project workers, which inter alia included applicants was prepared.

4. Applicants for non-accord of regularisation and extension of benefit of the Scheme by the respondents have approached this Court for redressal of their grievances.

5. Shri Mainee appearing for the applicants contended that earlier the Apex Court in WP-631/977 in Kamlesh Kapoor & Ors. v. Union of India & Ors. decided on 5.12.888 directed framing of a Scheme pertaining to casual workers in INSDOC, a constituent unit of CSIR for absorption and till then the workers have been directed to be continued with minimum of the pay scale payable to a regular employee. It is further stated that in OA-1941/89 and others - Shri Shiv Prakash Tyagi & Ors. etc. etc. v.

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C.S.I.R. & Anr this court by an order dated 22.11.91 directed preparation of Scheme for absorption. This decision was upheld by the Apex Court on 15.5.92 in SLP-5502-07/92. In this conspectus it is stated that similarly circumstance have also been accorded temporary status. As the CSIR adopted the Scheme and by referring to the case of one Kailash Kumar by an order dated 10.8.2001 temporary status was conferred upon him contended that the respondents having sufficient vacancies as on 1.4.2002 in Group I to Group IV have yet to regularise the applicants despite their requisite seniority.

6. Shri Mainee further contended that applicant Nos. 6,8,9 and 15 have been disengaged despite work and despite the decision of the Re-deployment Committee of 25.5.2000 recommending re-engagement and the representation made thereof has not been responded to. It is further contended that the salary has not been paid to them. Sh. Mainee by referring to the decision of the Apex Court in Durga Prasad Tiwari & Ors. v. Union of India & Ors., ATJ 1990 (1) 233 contended that for regularisation of casual workers Union of India is to be treated as a single unit. He further stated that working for so many years and despite the applicants have rendered 240 days in number of years they are yet to be regularised.

7. On the other hand, respondents' counsel Shri Manoj Chatterjee denied the contentions and stated that in so far as termination is concerned, as the project was already over applicants No.6,8,9 and 15 were dis-engaged and as soon as the work is available in a project as per their suitability they would be engaged. It is further stated that in so far as salary is concerned, the same has

not been stopped. As per rules of dis-engagement from a project the concerned person has to give a no due certificate and thereupon steps are taken to release the salary. Respondents have not stopped applicants from marking attendance whereas in view of the closure of the project they themselves have decided not to mark the attendance.

8. In so far as accord of temporary status is concerned, it is contended that in pursuance of the directions of the Court a Scheme was formulated to consider the applicants against regular vacancies as per their seniority.

9. It is in respect of applicants No.6,8,9 and 15 contended that as their project was closed and tenure was over before status quo was granted they cannot be continued. There is no work available to be offered to those whose project has come to an end for want of vacancies. It is stated that the project has come to an end on 31.1.2002. Learned counsel for the respondents contended that the delay taken in implementation of the Scheme is on administrative exigencies as the thorough examination of all relevant documents prior to finalisation of the seniority list has taken time. In compliance one time scheme for absorption of casual workers against regular vacancy has been framed. The services of the applicant shall not be terminated during the continuance of any project in which they are engaged if their conduct is according to the prescribed rules and it is incumbent upon them to engage the applicants of similarly situated persons in other projects on completion of the projects in which the year presently engaged in preference to freshers and

outsiders subject to the requirement and their suitability to the project. If the applicants are not found suitable in any other new project existing then they have to be discharged and to be re-engaged as per their seniority in the list in a project subject to the requirements and qualification for such projects.

10. I have carefully considered the rival contentions of the parties and perused the material on record. The contention of the applicants that on the basis of the decision of the Apex Court for regularisation cannot be countenanced, as the scheme for this constituent unit of CSIR has been framed in pursuance of the decision in OA-1292/99 and is to be meticulously complied with by the respondents subject to fulfilling all conditions laid down therein by the respondents. In so far as accord of temporary status is concerned, the same cannot be accorded to them in view of the fact that the scheme had already come into being in 2000 and the applicants are to be considered for regularisation against the regular vacancies.

11. In so far as disengagement of applicant No.6,8,9 and 15 is concerned, the same has been resorted to as the project on which they were employed had come to an end and as the engagement was co-terminus with the project they have no right to claim re-engagement. However, in the event as per the suitability and requirement of any project is started by the respondents they have to be considered for engagement in preference to the outsiders as per their seniority.

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12. In so far as claim of the other applicants for regularisation is concerned, having settled the seniority and the Scheme for regularisation is concerned, having settled the seniority and the scheme for regularisation has already been in effect since 2000 the respondents have to consider the cases for regularisation/absorption subject to their suitability and requirement of the project on its availability.

13. However, in so far as their continuance in the project is concerned, on the strength of the interim order it is observed that in the event the project is still going on the applicants should not be disturbed and be continued till their claim for regularisation is ~~conceded~~^u, as per the scheme.

14. In the result and having regard to the rival contentions of the parties the OA is disposed of with a direction to the respondents to consider the applicants for regularisation/absorption as per their scheme within a period of three months from the date of receipt of a copy of this order, subject to their suitability as per their seniority and also in accordance with the requirements and availability of project/scheme. However, during this interregnum the applicants should be continued to be engaged against the existing project/scheme and their services should not be dispensed with. No costs.

S. Raju

(Shanker Raju)
Member (J)

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