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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH NEW DELHI

O.A. NO. 2091/2001  
M.A. NO. 1750/2001

New Delhi, this the ...<sup>15</sup>... day of February 2002

Hon'ble Shri Govindan S. Tampi, Member (A)

1. Dinesh Kumar S/o Sh L K Chauhan,  
Resident of B-52, Raja Bazar,  
Bangalassab Road,  
Gole Market, New Delhi.
2. Darwan Singh S/o Sh Pan Singh,  
Resident of 1466, Lodhi Road Complex,  
New Delhi
3. Ram Chand S/O Sh. Bindeshwari Prasad,  
Resident of Lodhi Estate NL,  
New Delhi
4. Vijay Kaushik S/o Sh I C Kaushik,  
Resident of 12/125, DMS Colony,  
Near Clock Tower, New Delhi
5. Vinod Kumar, S/o Sh Sawraj Singh,  
Resident of 199-K, Kailash Nagar,  
Gaziabad

.....Applicants  
(By Shri B.B. Raval, Advocate)

VERSUS

1. Union of India through the Secretary,  
Min. of Agriculture,  
Dept. of Animal Husbandry & Dairying  
Krishi Bhawan, New Delhi
2. Sh. Raman Kumar,  
Peon,  
Dept. of Animal Husbandry & Dairying  
C/o Respondent No.1
3. Shri Sajjan Singh Yadav, Peon  
Dept. of Animal Husbandry & Dairying  
C/o Respondent No. 1.

.....Respondents

(By Shri Rajiv Bansal, Advocate Respondent No.1  
and none for Respondent No. 2 & 3)

O R D E R

Reliefs claimed by the applicants are as below:

i) to direct the respondents to bestow temporary status on the applicants followed by regularisation from the same date as in respect of respondent Nos 2 and 3, who are both juniors in terms of Registration with the Employment Exchange as well as joining the service; and

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ii) Award exemplary cost for this application with a further request to pass other order/orders or direction/directions or grant any other relief/reliefs as deemed fit and proper in the light of the facts and circumstances of the case.

2. Interim relief by way of restraint on the respondents from proceeding with the selection of two persons for the post of Farash and Chowkidar, has been granted on 20.8.2001.

3. Heard S/Shri B B Raval and Rajeev Bansal, learned counsel for the applicant and the respondents respectively.

4. M.S. No. 1750/2001 for joining is allowed.

5. All the five applicants, duly sponsored by the Employment Exchange, were engaged as Daily Rated Casual Labour in the Deptt. of Animal Husbandry and Dairying from 25.8.94 to 10.4.96, with technical breaks, when their services were orally terminated. On the termination being challenged in OA No. 786/1996, Tribunal on 27.5.96, directed the respondents to re-engage the applicants, when work was available in preference to those with lesser service. Following this 15 persons, including the applicants were re-engaged from 10.9.96 to 19.5.98. As a few juniors were still engaged, applicants filed CP No. 204/97, during the pendency of which, one junior was also granted temporary status in terms of 1993 scheme, denying the same to the applicants who were also eligible after the disposal of the CP, one more person was granted temporary status and juniors as well as freshers were engaged. Respondents had also brought on deputation, staff from other organisation to work against the vacant posts, for longer periods without employing the applicants, in addition to holding interview for filling the post of Farash and

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Chowkidar on regular basis. As many as eight persons with less than 90 days service have been regularised. One of the applicants in OA No. 786/94, who had not been given temporary status, in spite of respondents own undertaking, filed OA No. 1555/98, which was disposed of by the Tribunal on 20.1.99, directing the re-examination of the applicants' case, without insisting that 240 days (or 206 days) should be in a calender year or financial year. This order has been upheld both the Hon'ble Delhi High Court and the Hon'ble Supreme Court. Following this the applicant has filed a representation on 16.1.2001, which is yet to be responded. Hence this OA.

6. Grounds raised in the OA are as follows:-

- i) inspite of the applicants having been duly sponsored through the Employment Exchange, they had not been regularised, while two of the juniors have been regularised,
- ii) benefit of the Tribunal's order in OA No. 786/94 have not been extended to the applicants;
- iii) decision of the Tribunal in OA 1555/98, dated 20.1.99 has become final, having been endorsed by the High Court and the Supreme Court and has not been given effect to;
- iv) respondents have been attempting to fill the vacancies of a Chowkidar and Farash, without considering the applicants, who are eligible to be considered for regularisation.

All the above points were fervently re-iterated by Sh. B B Raval, learned counsel.

7. Pleas of the applicants are forcefully contested by the respondents. Preliminary objections raised by them are that the OA is barred by resjudicata, the applicants were aware of the recruitment of two posts in Group D, (as one of them had also appeared for it), OA is hit by

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limitation and that none of them had completed 206 days in a year. Respondents have correctly granted temporary status to S/Shri Raman Kumar Jha and Sajjan Singh Yadav as they had worked for 222 days & 216 days in a year and have become eligible for the same. Tribunal's order in OA No. 786/94, has been given effect to in the proper spirit, and the same cannot be called in question. According to the respondents none of the applicants had worked for the requisite period of 206 days in any of the years i.e. 1994-95, 95-96, 96-97 and 97-98 and therefore they are not eligible for grant of temporary status. According to the respondents, there was no concept of seniority in respect of casual workers and the relevant criterion is the completion of 206 days in a year and as Raman Kumar had completed the requisite period, he was granted temporary status, in accordance with the 1993 Scheme of DoPT. CCP No. 303/97, was dismissed on 24.11.97, with liberty to the applicants to move in a fresh OA, if they were aggrieved with respondents order dated 23.9.97. Applicants are yet to do it and therefore this OA is barred by limitation. Applicants have also been engaged for 89 days from May 98, with the stipulation that the same did not create any right for grant of temporary status or regularisation. Respondents had made use of the services of their regular staff from Hissar, Sheep Breeding Farm and DMS, which cannot be questioned. They also point out that Emp. Exchange was requested to sponsor candidates for the posts of Chowkidar/Farash, after obtaining clearance from the Surplus Cell and after putting all concerned to notice, by placing it on the Notice Board. As many as 60 persons came for the interview, including applicant No.3. Respondents agree that in 1993, when the Ministry was bifurcated, on account of shortage of staff they had recruited few persons through Employment Exchange, and the applicants who came to

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be engaged in 1994, had no cause against them. Shri Diwan Singh, the applicant in OA No. 1555/1998, completed the requisite period of 206 days, on account of the stay granted by the Tribunal, and was, therefore, granted temporary status w.e.f. 16.2.2001, following Tribunal's decision on 20.1.1999. Engagement of the applicant was clearly need based and they had been disengaged once the work was over. Those who have completed the requisite period of 206 days in a year have been granted temporary status. To this category belonged Ram Kumar, Sajjan Singh and Diwan Singh. Applicants, not having completed the period cannot claim temporary status as of right. Respondents further point out that in terms of Tribunal's order, the applicant had a case for being considered for the post of casual labourers and they had no right whatever for being regularised. All the applicants had been considered but only those who have completed the requisite period could be granted temporary status. Sh. Rajeev Bansal, learned Counsel for the respondents stoutly argued their case and pointed out that they had acted correctly and that the OA deserved to be dismissed.

8. In his rejoinder, for the applicants Shri Raval contradicted all the points in the Court in a general manner but made specific reference to the fact that the three persons who have been granted temporary status, were juniors to the applicants having been registered with Employment Exchange on later days. Shri Raval who says that as the applicants have completed the requisite period of service they had a vested and primary right for consideration for recruitment as Chowkidar and Farash, for which the respondents had moved Employment

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Exchange. Shri Raval again held forth on the injustice done to the applicants and prayed for Tribunal's intervention to render them justice.

9. I have given careful deliberation on the rivals contentions, raised in this OA. This indeed is the third round of litigation, in which the applicants have engaged themselves in. That precisely is the reason the respondents have assailed this O.A. is being hit by resjudicata. The same, however, has no basis, as the applicants have come before us as having been permitted to come before us, by the Tribunal vide its orders in the OA No.1555/1998 filed by Diwan Singh and the applicant's representation dated 16.1.2001, which has not been acted upon. Respondents' objection on the aspect of limitation also falls in the above scenario.

10. Coming to the merits, I find that the applicants have assailed the <sup>Alleged</sup> inaction of the respondents in not granting them temporary status as a prelude to regularisation, as according to them they had completed the requisite period. On the other hand, the respondents aver that none of the applicants has completed the requisite period of 206 days in a year. In OA No. 786/1996, the Tribunal had on 27.5.1996 directed the respondents to re-engage the applicants, subject to availability of work in preference to those with lesser length of casual service. Subsequently in OA No.1555/1998, the Tribunal had, on 20.1.1999, ordered that the claim for temporary status should be considered, subject to the claimants' continuous 206 days of service in a year, without insisting on its being a calender year or financial year and to ignore technical breaks. Both these orders are in favour of the

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applicants, if they fulfil the conditions that they have completed the requisite period and that individuals with lesser length of casual service has been granted temporary status and/or regularisation. However, the applicants have not fulfilled the required conditions. In reply to para 4.6 of the OA, the respondents have indicated that none of the five applicants i.e. S/Shri Dinesh Kumar, Ram Chander, Darwan Singh, Vinod Kumar and Vijay Kaushik has completed 206 days in any of the years from 1994-95 to 1997-98. Applicants' reply is that as S/Shri Raman Kumar and Sajjan Singh are juniors to them, it was not comprehensible as to how they have completed 206 days in a calendar year. This response does not explain anything. It was for the applicants to show that they had completed 206 days in any year - during a continuous period of 12 months - before they can be granted temporary status. This, they have not done and, therefore, the respondents cannot be directed to grant them temporary status. Respondents have shown that Raman Kumar Jha and Sajjan Singh, who were the applicants in OA No. 786/1996, along with the present applicants as well as Diwan Singh, who was concerned in OA No.786/1996 and in OA No.1555/1998, had been granted temporary status, as they had completed the required period of 206 days. The action of the respondents is bonafide and fair and cannot be assailed. The applicants cannot, in law, have a case against anyone appointed in 1993 with longer or shorter service as they have been regularly recruited when the bifurcated Ministry was set up and *that too* much before the applicants were engaged. With regard to the recruitment of Chowkidar/Farash, from candidates sponsored through the Employment Exchange, the same was done by the respondents after giving publicity in the Department and one of the applicants (Ram Chander, applicant No.3) is found to have participated in it, but not

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selected. Applicants' allegation that the said recruitment process was done secretively has no basis and their averment that they had primary right of consideration in the said selection, has no sanction in law and cannot be endorsed.

11. In the above view of the matter, I am convinced that the applicants have not made out any case for the intervention of the Tribunal and the O.A has therefore, to fail. It is accordingly dismissed with no order as to costs. However, I would like to indicate that if any of the applicants are able to prove by supporting evidence that they had worked for more than 206 days in any one year - continuous period of 12 months - respondents shall consider his case for grant of temporary status in terms of DOPT Scheme for grant of temporary status and regularisation of Casual Labour , dated 10.9.93.

(GOVINDAN S. TAMPI)  
MEMBER (A)

Patwal/