

(2) (13)

Central Administrative Tribunal  
Principal Bench

O.A. 403/99

New Delhi this the 4th day of April, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Hari Prashad,  
S/o Shri Parson,  
R/o Flat No.18, SBI Flats,  
G. Block, East of Kailash,  
New Delhi.

(By Advocate Shri Deepak Verma, proxy for Shri S.K. Gupta)

Versus

1. Union of India, through  
Secretary,  
Ministry of Defence,  
South Block,  
New Delhi.
2. D.D.G.M.F.,  
Q.M.G. Branch,  
Army Headquarters,  
West Block-III,  
R.K. Puram,  
New Delhi.
3. Commandant/Farm Officer,  
Military Farm School and Research,  
Centre, Grass Farm Road,  
Meerut Cantt. Meerut.

(By Advocate Shri Anil Singhal proxy for Mrs. P.K. Gupta)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has challenged the vires of the order orally passed by the respondents discharging him from service w.e.f. 9.12.1998, their action in not granting him temporary status in terms of the DOP&T Scheme dated 10.9.1993 and also retaining others whom he claims are junior to him in service.

2. I have heard the learned proxy counsel for the parties and perused the records. Shri Deepak Verma, learned proxy counsel for the applicant relies on two orders of the

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Tribunal, namely, Mohinder Pal Vs. Union of India & Ors. (O.A. 2366/98) decided on 14.5.1999 and Inderpal Singh Vs. Union of India & Ors. (O.A. 345/99), decided on 3.2.2000, copies placed on record.

3. The applicant has stated that after he was sponsored by the Employment Exchange, Meerut, the respondents had engaged him in 1992 as a Farm Hand on casual basis. According to him, he had completed 290 days of work on 1.9.1993 and was, therefore, entitled to grant of temporary status in terms of the aforesaid DOP&T O.M. dated 10.9.1993. He has also submitted that in 1993-94, he had worked for 266 days, 1994-95 for 328 days, 1995-96 for 333 days, 1996-97 for 234 days and in 1997-98 for 154 days before his services were terminated by the impugned verbal order dated 9.12.1998. He has stated that in 1997, he had also performed his duties as Farm Hand on contract basis and the nature of duties was the same as he was performing earlier. He has also submitted that the respondents, while discharging him from service have in fact, retained the services of certain other persons, who are junior to him, namely, Basir S/o Ajmeri and Prem Chand S/o Nathu Ram, and four other persons were freshly appointed. Learned proxy counsel for the applicant has submitted that in view of the fact that the applicant has completed the requisite number of days as provided in the DOP&T Scheme, there is no reason why the respondents should not grant him temporary status and other benefits, as provided in that Scheme. He has also prayed that a direction may also be given to the respondents to consider re-engaging the

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applicant forthwith in preference to juniors and outsiders and also for a direction to consider him for regularisation in a Group 'D' post in terms of the Scheme.

4. The respondents in their reply have submitted that the applicant was employed as casual labourer as and when they required his services in the Regimental Farm. According to them, there is no authorised post sanctioned in the Regimental Farm and hence, the question of granting temporary status to the applicant does not arise. They have submitted that the applicant left the job on his own accord. They have also stated that the applicant's name was sponsored by the Employment Exchange only on 28.5.1997 and not in 1992 as stated by the applicant. Their contention is that there is no permanent PE post sanctioned in the Farm where the applicant was working. According to them, as the applicant had also left the job, without intimation, on his own accord and has not exhausted the departmental remedy as he had never approached them before filing the O.A., on these grounds also they have prayed that the O.A. may be dismissed.

5. In the rejoinder, the applicant has controverted the averments made by the respondents. According to him, there are sanctioned posts in the Regimental Farm and as per the Govt. of India's Scheme dated 10.9.1993, as he fulfils the required number of days, he is entitled for grant of temporary status and other benefits. He has also denied that he had left the job on his own accord but, according to him, he was shunted out and he is willing to work even now if he is given a chance. The learned proxy counsel submits that the applicant had made an earlier representation dated 23.2.1998 requesting the respondents to grant him temporary

status in terms of the DOP&T Scheme but he had not received any reply to the same. The learned proxy counsel for the applicant, therefore, submits that in any case the applicant is entitled to be given temporary status in accordance with the Scheme. He has also submitted that the applicant is willing to go back to work, in case the respondents require his services in the same capacity.

6. I have carefully considered the pleadings and the submissions made on behalf of the parties.

7. The Tribunal's order dated 3.2.2000 in Inderpal Singh's case (supra) relied upon by the applicant is applicable to the facts in the present case. Although the applicant has submitted categorically that he has worked for the number of days he has specified for the years from 1992 to 1998 in paragraphs 4.3 and 5(A) of the O.A., it is seen that the respondents have not given a clear or categorical denial or affirmation of these facts. However, from Para 1 of the reply, it is seen that they have submitted that the applicant has been employed as casual labourer as and when they required his services in the Farm. The actual number of days of working put in by the applicant is a matter of fact for the respondents to verify from their records, like the Muster Roll, Acquaintance Roll, Attendance Register and so on, as the case may be. In other words, it is for the respondents to consider the statements made by the applicant that he had, in fact, worked for more than 240 days in a year, as provided in the DOP&T Scheme dated 10.9.1993.

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8. In the facts and circumstances of the case, the O.A. is disposed of with a direction to the respondents to grant the applicant temporary status, after ascertaining the necessary facts from their records in accordance with the relevant law and instructions. In case the respondents have need for engagement of any casual labourer to do the work of the nature that the applicant was doing earlier, they shall also consider re-engaging him in preference to freshers, including freshers on contract basis. No order as to costs.

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)

'SRD'