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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA-2121/89

Date of decision: 13.12.1991

Shri Bhim Singh

.... Applicant

Versus

Secretary, Ministry of
Agriculture & Others

.... Respondents

For the applicant

.... Shri B.S. Maines, Counsel

For the Respondents

.... Shri M.L. Verma, Counsel

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The applicant, who has worked as casual labourer (Waterman-cum-Mali) in the office of the Assistant Director, Regional Agmark Laboratory, Directorate of Marketing and Inspection, Okhla, New Delhi, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for directing the respondents to reinstate him from the date of his termination with full back wages and consequential benefits.

2. The facts of the case are not disputed. The applicant has worked in the office of the respondents from 3.6.1986 till 9.6.1989 as a casual labourer (Waterman-cum-Mali). His work and conduct had been satisfactory. No reasons have been given for the impugned termination except that his services were no more required at R.A.L., Okhla.

3. The respondents have stated in their counter-affidavit that he was only a part-time worker and that he was paid from contingencies. It is a case of discharge simpliciter.

4. We have gone through the records of the case and have considered the rival contentions. We have also gone through the case law cited by both parties.* The respondents have not stated in their counter-affidavit as to why the services of the applicant were no more required. According to the administrative instructions issued by the Department of Personnel, casual labourers who have worked as such for 240 days in each of two years, are eligible for regularisation in Group 'D' posts. By O.M. dated 7.6.1988, instructions had been issued to all the administrative Ministries/Departments to undertake a review of appointment of casual

* Cases relied upon by the applicant:

1990 (2) SCALE 588; SLJ 1989 (1) 154; 369; SLJ 1988(2) 31.

Cases relied upon by the respondents:

1967 SC 884; 1988 (2) ATR 405; 1988 (2) ATLT 191;
1987 (1) ATLT 408.

labourers in their offices and to adjust all eligible casual labourers against regular posts to the extent such regular posts are justified. The rest of the casual workers whose services were not considered absolutely necessary, were to be dispensed with. The Ministries/Departments were given six months' time to conduct the review. The applicant before us was continued even after the period of expiry of six months.

5. In Durga Prasad Tewari Vs. Union of India, 1990(3) SLJ, CAT, 94, this Tribunal had held that there is no force in the contention of the respondents that only those casual workers who have been sponsored by the Employment Exchange are entitled to be considered for regularisation. It was observed that casual labourers who have worked for 2 to 4 years, as in the said xx case, should be considered for regularisation of their services irrespective of whether their names have been sponsored by the employment exchange (vide U.O.I. & Others Vs. Hargopal & Others, 1987 (3) SCC 308; Swami Nath Sharma & Others Vs. U.O.I., AIR 1988 (1) CAT 84 and T.S. Sadashivajah & Others Vs. Secretary to Govt. of India & Others, AIR 1989 (1) CAT 172). It was further observed in the aforesaid judgement that regularisation of casual labourers would depend upon the existence of regular Group 'D' posts in the Ministry/

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Department concerned. For this purpose, a unit of the Ministry/Department (as the office of the Controller of Accounts in this case), should not be taken in isolation and the Ministry/Department should be taken as a single unit.

6. In the subsequent decision of Raj Kamal & Others Vs. Union of India, 1990 (2) SLJ, 169, the aforesaid observations were reiterated and the respondents were directed to prepare a rational scheme with a view to regularising casual labourers who have worked for more than 240 days. The following observations made by the Tribunal in Raj Kamal's case are pertinent:-

".....Since the Department of Personnel and Training is monitoring the implementation of the instructions issued vide O.M. dated 7.6.1988, the Union of India through that Department, should undertake to prepare a suitable scheme for absorbing such casual labourers in various ministries/departments and subordinate and attached offices other than the Ministry of Railways and Ministry of Communications. Their absorption should be on the basis of the total number of days worked by the persons concerned. Those who have worked for 240 days/205 days in the case of six days/five days week, respectively, in each of the two years prior to 7.6.1988, will have priority over the others in regard to absorption. They would also be entitled to their absorption in the existing or future vacancies. Those who have worked for lesser periods, should also be considered for absorption, but they will be entitled to wages for the period they actually worked as casual labourers. No fresh engagement of casual labourers against regular vacancies shall normally be resorted to before absorbing the surplus casual labourers. The fact that some of them may not have been sponsored by the Employment Exchange, should not stand in the way of their absorption. Similarly, they should not be considered ineligible for absorption if at the time of their initial engagement, they were within the prescribed age-limit."

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7. In the light of the above, we hold that the termination of services of the applicant w.e.f. 9.6.1989 is not legally tenable. The respondents are directed to reinstate him as casual labourer (Waterman-cum-Mali) in the regular vacancies in the posts of Group 'D' arising in the Ministry of Agriculture and its offices wherever they are located and consider his regularisation in one such vacancy. In case, no such vacancy exists in the Ministry of Agriculture and their offices, he should be adjusted against vacancies of Group 'D' staff in other Ministries/Departments/attached/subordinate offices for appointment in accordance with the scheme directed to be prepared, as mentioned in para. 21 of the judgement of this Tribunal in Raj Kamal Vs. Union of India, 1990 (2) C.A.T. 169. The respondents are directed not to induct a fresh recruit as casual labourer through Employment Exchange or otherwise, overlooking the preferential claim of the applicant. The emoluments to be given to him till regularisation should be strictly in accordance with the orders and instructions issued by the Department of Personnel & Training. After his regularisation, he shall be paid the same pay and allowances as a regular employee belonging to Group 'D' category. In the facts and circumstances, we do not direct payment of back wages to him. The respondents shall comply with the above

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directions within a period of three months from the date of communication of this order.

8. There will be no order as to costs.

B.N. Dholiyal
(B.N. Dholiyal) 13/12/91
Administrative Member

P.K. Kartha
(P.K. Kartha) 13/12/91
Vice-Chairman(JudI.)