

**Central Administrative Tribunal
Principal Bench**

OA No. 3064/2004

New Delhi this the 4th day of October, 2005.

Hon'ble Mr. Shanker Raju, Member (J)

1. Om Prakash s/o Sh. Lakshman,
R/o village Dorala, Meerut,
2. Gangacharan s/o Sh. Jagram,
R/o village Machhri,
Distt. Meerut (UP).

-Applicants

(By Advocate Shri Surinder Singh)

-Versus-

1. The Secretary,
Indian Council of Agricultural Research,
Library Avenue, New Delhi.
2. Central Potato Research,
Institute Campus,
Modipuram, Meerut,
Through its Jt. Director.

-Respondents

(By Advocate Shri B.S. Mor)

ORDER (ORAL)

Applicants impugn respondents' order dated 1.9.2004 whereby their request for accord of temporary status under DoPT Scheme of 10.9.1993 has been turned down on the ground that up to 1.3.1993 in any of the years they had not completed 240 days.

2. Applicants, who had been working since 1993 on casual basis, state that they had completed more than 240 days inclusive of Sundays and holidays in 12 months. Learned counsel for the applicants, relying upon an Award in ID 77/97 issued by CGIT and implemented by Army Headquarters vide their Notification dated 12.10.1993 where requirement of 240 days of casual service has to be counted not on calendar basis but simply on a period of 12 months, contended that the applicants are entitled for accord of temporary status and regularization. However, the said contention raised on behalf of the applicants has been opposed by the learned counsel for the respondents.

3. On the other hand, respondents' counsel Shri B.S. Mor cited decision in *Mahendra L. Jain & Ors. v. Indore Development Authority & Ors.*, 2005 (1) SLR 39

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and decision of the Calcutta High Court in *Biman Kr. Roy & Ors. v. Union of India & Ors*, 1999 (5) SLR 771 (Cal.) to contend that a seasonal worker and a daily wager are not appointed against a vacancy and have no right to regularisation and also not entitled to invoke the doctrine of *equal pay for equal work*.

4. A similar claim has been dealt with by this Tribunal in OA No. 3058/2004 (*Shri Faiyaz versus The Secretary, Indian council of Agricultural Research & Anr.*) decided on 03.10.2005, where following observations have been made:

5. On careful consideration of the rival contentions of the parties, once the Directorate General of Army Headquarters had taken a decision to count 240 days in 12 months and not to insist on calendar year being part of Government there cannot be a different criteria adopted in other departments. Accordingly, once a principle has been recognized on an Award by the CGIT the same has to be universally followed. In this view of the matter applicant states that he had completed 273 days service from February 1992 to January 1993 and in their reply respondents have stated that applicant had worked for 208 days in the year 1992 and 97 days in 1993. This completes 240 days if any two months are reckoned for computing the working period.

6. Accordingly, this OA stands disposed of with a direction to respondents to re-consider the claim of applicant, keeping in regard the above observations, for grant of temporary status and also for regularisation in accordance with rules, instructions and law on the subject. No costs.

5. In my considered view, applicants are, in all fours, covered by the above decision as being identically situated. Accordingly O.A. stands disposed of with a direction to the respondents to re-consider the claim of the applicants keeping in view the observations made in OA No. 3058/2004 for grant of temporary status and regularization in accordance with rules, instructions and law on the subject. No costs.

S. Raju

(Shanker Raju)
Member (J)

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