

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 1379/2004

W.A No. 1152/2004

New Delhi this the 30th day of August, 2005

Hon'ble Mrs. Meera Chhibber, Member (J)

1. Prakash s/o Late Sh. Har Chand,
R/O Village Macchari, P.O.Daurala,
Distt: Meerut.
2. Bale s/o Harchand,
R/O Village Macchari, P.O. Daurala,
Distt : Meerut.
3. Krishna w/o Bale
R/O Village Macchari, P.O. Daurala,
Distt : Meerut.
4. Deva Nand s/o Prakash,
R/O Village Macchari, P.O. Daurala,
Distt: Meerut.

..Applicants

(By Advocate Ms. Anu Mehta)

VERSUS

1. Union of India,
Through Secretary Agriculture,
Krishi Bhawan, New Delhi.
2. Indian Council of Agricultural Research,
Krishi Bhawan, through its Director,
Library Avenue, New Delhi.
3. Central Potato Research Institute,
Simla Himachal Pradesh, through its
Director.



4. Central Potato Research Station,
Modipuram, Meerut through its
Scientist Incharge.

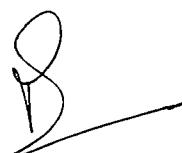
(By Advocate Shri B.S. Mor)

Respondents

ORDER

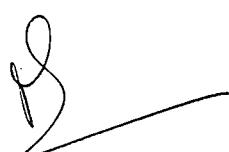
This OA has been filed by as many as 4 applicants who have sought quashing of the order dated 15.9.2003 whereby applicants have been informed that it is not possible to continue them in view of threats given by them and their misbehaviour with the officers as well as other labourers. They have further been informed that in future if they misbehave again with officers or threaten any labourers or officers, action will be taken through police (page 13). Applicants have also sought directions to the respondents to pay them salary regularly.

2. The brief facts as alleged by applicants are that the work of Research in Potato under the Central Potato Research Station Modipuram is carried on at Modipuram as well as village Pabli and at village Macchari Dist. Meerut. During the season when there is no crop of Potato, wheat and other crop are grown for National Seed Corporation. In the season of Potato more than 60 additional casual labour are engaged at Modipuram, Pabli as well as Macchari. All the applicants have been working with respondent No 4 from a long time and they have already completed 240 days but instead of



regularizing them, respondents were engaging other casual labourers so they filed OA 589/2002 before Allahabad Bench which was decided on 31.1.2003 by directing the respondents not to displace the present set of applicants by new faces, of course if there is some misconduct committed by any of the casual labour, in that case respondents will be at liberty to take appropriate action against the said causal labour. Respondents were further directed to frame some kind of a scheme to ensure that preference is given to those casual labours who are still working with them or who have already worked with the respondents. So that there is less chance of arbitrariness being alleged against them. (pages 18 at 22).

3. Pursuant to Court's directions, respondents called the applicants for duty vide letter dated 26.4.2003. All the applicants reported for duty on 27.4.2003 at Macchari farm but thereafter applicants were not given work though others were engaged. When applicants requested, they were threatened. On 7.7.2003 all the applicants were called for duty but when they reported for work, they found other casual labourers were working and the incharge Dr Raj pal Singh, Shri Veerpal, Joint Director and Dr. K.P.Singh gave beating and threat to the applicants life. Accordingly application was given to S.O. regarding this incident. No work was given to the applicants



and vide order dated 15.9.2003 applicants have been asked not come to the farm.

4. It is this order which has been challenged by applicants on the following grounds

1. This order attaches stigma, therefore, it could not have been issued without following principles of natural justice.
2. The misconduct alleged against applicant is absolutely wrong. They had been working with respondents and there was no complaint earlier. It is a cooked up story.
3. Respondents have violated the directions of Allahabad Bench in as much as ignoring the applicants work was being taken from new set of casual labourers.
4. It is respondents who had beaten the applicants and this order has been issued because they had approached the Tribunal earlier.
5. Joint Director could not have acted as a Judge in his own cause as he alone is stated to have witnessed the scene on 7.7.2003 as per the order and he himself took the decision to do away with applicants services.

To support their contentions applicants counsel relied on following judgments:

2001(1) Service Cases today 570 Allahabad High Court



2003(4) SCT 177 Single Bench of Delhi High Court.

2003(1) SCT 37 Division Bench of Karnataka High Court.

6. Respondents on the other hand have opposed this OA. They have submitted that they engage casual labourer as per the requirement during the season. To them it makes no difference whether AB is working or XYZ, so long work is done properly. These applicants were called to do the work in compliance with court's directions but they behaved in an unbecoming manner. Threatened the other labourers ladies, the officers at farm and even manhandled the staff and created nuisance. The applicants insisted that all 8 persons who had filed earlier OA should be given work whereas requirement was for 4 only 7.7.2003. Moreover applicants were earlier also removed for misbehaviour in July, 2002 but since they apologised, they were reengaged. They were reengaged after court's order also, yet they misbehaved, gheraced the office vehicle, used abusive language and threatened to kill the staff, therefore, respondents had to request the SHO, Daurala to provide security to the regular staff as well as other labourers. The respondents were, therefore, left with no other option but to pass the impugned order. They have submitted applicants do not have any right of hearing, as they were not holding any post.



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7. They have further explained that though research work continues through out the year but casual labour are engaged for only seasonal work of sowing/harvesting or some other casual work. During season if some casual labour is not available others are engaged as it is time bound programme. As per Allahabad's judgment seniority list of casual labourers is being prepared. They have thus prayed that OA may be dismissed.

8. Counsel for respondents relied on judgment dated 8.2.2005 decided by Hon'ble Supreme Court in Civil appeal No. 1262-63/2003 and the judgment given by Hon'ble High Court of Delhi reported in AISLJ 2002 (2) DSIDC Ltd. Vs. J. K. Thakur (Delhi).

9. I have heard both the counsel and perused the pleadings as well as records which were produced by respondents as per court's directions. Perusal of the file shows, there is sufficient material on record to substantiate that applicants had threatened the causal labour and misbehaved with women labour the regular staff including the officers. Moreover this is not the 1st time that applicants had misbehaved but as back as in May 2002 also, a memorandum was issued wherein it was stated that Shri Rakesh, Prakash and Bal Singh are spoiling the atmosphere in the farm as they have threatened the labour coming from sarghane and even with incharge and Superintendent their behaviour is not good. They were advised to behave



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properly with lady labourers and staff officers but no improvement was seen, therefore, these persons were removed. Similarly, Bale was warned for his misbehaviour in March 2002. There are also complaints against Bale and Prakash that they left the work assigned to them incomplete and when asked next day they misbehaved with the in-charge. It is also on record that 8 persons viz. Prakash, Bale, Krishna, Rakesh, Satpal, Bale Singh, Bhanu Puri and Dev Anand sought apology in writing and requested for being reengaged on 28.9.2002. Dev Anand gave undertaking on 11.11.2002 that he would not do any such thing which offends staff of farm in future. All these facts clearly establish that applicants were not performing their work properly and were habitual of misbehaving. Unfortunately these facts were not brought to the notice of Tribunal at Allahabad in detail nor records were produced. The judgment at Allahabad was also given by me. Had these facts been brought on record probably, the applicants would not have got the relief as was given to them because I very strongly feel that indiscipline and misbehaviour at work place should not be encouraged at all as it disturbs the working and vitiates the atmosphere and if ignored administration will not be able to work. It must be contained with iron hand.

10. In the present case it is seen that inspite of this background of applicants, the directions given by Allahabad Bench were complied with by



the respondents as all the 8 persons were called to work vide office order dated 3.3.2003. It was specifically mentioned in this order that whatever work is assigned to them shall be done by them diligently and duly fully without creating any problems with their misbehaviour. If they misbehave, police action will be taken against them. This order is in Hindi and acknowledged by all the 8 persons viz. Prakash, Sohan Pal, Satpal, Bale, Krishna, Dev Anand, Rakesh and Bal Singh meaning thereby no objection was raised by them and they accepted the contents of this order on 20.3.2003. These people were again called to come for work at farm and were again warned to behave. From perusal of the file it is clear that the Joint Director had in fact written letters in April 2003 to the incharge farm management, Macchari to implement the Court's order in toto which shows he had nothing against these applicants as he wanted the compliance of court orders but it seems the incharge had removed the applicants w.e.f. April but after speaking with incharge Joint Director gave yet another opportunity to these 2 persons for re-engagement by again issuing an order dated 4.4.2003 stating therein that Bale and Bal Singh were removed from work w.e.f. April by the incharge due to their misbehaviour which is rather unfortunate as they are not improving but in view of court's directions they be reengaged. Similarly Shri Sohan Pal was temporarily not given work due



to his ill health but it was stated that as soon as he gets well, he should also be reengaged. This was ordered inspite of knowing that Shri Sohan Pai cannot bend nor can lift weight whereas the requirement was lifting bags of potatoes at that time. All this clearly shows bonafides of the Joint Director as he wanted to comply the orders of Tribunal.

11. On 26.4.2003, the respondents again asked the applicants to come for work but the beldar who took the letter to applicants has given in writing that applicants told him not to come as those officers who are interested should come themselves. This report was sent by the Technical Officer to the Joint Director and he also informed that these persons are using abusive language and do not even do proper work as such action should be taken against them. On 5th July, 2003 advisory note was given to the applicants wherein they were clearly informed that if they do not improve and commit any misconduct, they would be removed permanently.

12. Inspite of warning, on 7th July 2003 even though 4 persons were called for work they refused to work on the ground that all 8 persons should be given work. Therefore, they were informed that they cannot be allowed to work as per their whims and since they refused to work other casual labourers were engaged. On same day, Technical Officer gave a complaint to the Joint Director how the staff was gharaved by these 8 persons near



Daurala railway gate crossing and used abusive language and threatened them. Prakash enquired why report against them has been lodged with police and he would kill them and they would see how work is done at the farm. The Technical Officer once again requested the Joint Director to take action against these persons.

13. Similar report was given by labour incharge of Macchari farm as well, that they are threatening the casual labours not to come for work, otherwise they would beat them, therefore, action be taken against them. It is at this stage that the Joint Director reached Macchari farm to assess the situation and even in his presence abusive language was used by applicants and apart from it the lady labourers also gave in writing on 7.7.2003 that they have been threatened by Prakash, Dev Anand, Rakesh, Bala and others not to come to work. Accordingly report was sent to police station, Daurala on 7.7.2003 which is also on record Report lodged with police at Meerut against these 8 persons is also on record wherein it was clearly mentioned that these persons were obstructing the work at farm Macchari and were threatening and abusing the casual labours as well as regular staff.

14. From the above record, it is absolutely clear that applicants are in fact acting like ruffians and are taking the farm officers to ransom which is unpardonable. Simply because Tribunal had directed the respondents not to



replace the applicants by another set of casual labour, it did not give them a license to do whatever they liked. I am satisfied after seeing the record that full opportunity was given to the applicants to do work properly inspite of their misbehaviour and defiant attitude, in compliance with court's directions but it seems applicants were misusing the judgment, therefore, respondents were left with no other alternative but to tell them not to come for work.

15. In these circumstances, it cannot be said that orders passed by respondents are illegal or in violation of principles of natural justice as alleged by counsel for applicants. Admittedly, applicants were working only as casual labourers and if they were not working properly or were indulging in hooliganism, they were rightly told not to come for work anymore. After all respondents made every possible effort to give them chance after chance to improve but if applicants do not want to work and want to act like mafia, they do not deserve any sympathy at the hands of courts. Moreover applicants were not regularly appointed persons holding any civil post therefore, principles of natural justice would not be attracted in these circumstances. Protection is guaranteed under the constitution only to holders of civil post. Since applicants were not holding any civil post they cannot be heard of saying that order is stigmatic or they should have been

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given hearing before terminating their services. In fact as explained above repeated warnings were given to the applicants, they were advised to improve, reengaged with clear stipulation that in future if they misbehave they will not be allowed to work, yet they misbehaved, resorted to nuisance by gheraoing threatening the officers and labour. Such type of people, according to me, have absolutely no right to seek mandamus from a court of law to continue them.

16. This Very question, whether a daily wager can be terminated on account of accepting bribe without any hearing or holding an enquiry even though he had been working with organization for the last 7 years came up for consideration before Hon'ble High Court of Delhi. The Division Bench after discussing every aspect of the matter held in clear terms that:

1. service rules do not apply to a daily wager
2. concept of civil consequences apply only when one holds a post
3. many years of service as daily wager do not amount to regularisation
4. a daily wager can be terminated without any hearing

The facts of present case are fully covered by the judgment as referred to above. It is thus clear that the rights of an employee are protected under the constitution and service rules, only if he holds a post. A person not holding a civil post cannot cling to the rights available to a regular employee.



MS

17. In view of the above discussion, the contentions raised by counsel for the applicant that right of hearing has been violated is not at all sustainable in law. It is also wrong to suggest that Joint Director has been judge in his own cause. He is not the only one, who witnessed all this. As explained above, there is sufficient evidence in the files to show that the applicants misbehaved with staff, casual labourers, threatened them all and obstructed the work by resorting to hooliganism, therefore, this contention is also rejected.

18. In view of the above discussion, I do not find any illegality in the orders passed by the respondents. In given circumstances, there was hardly any other option left to the respondents. Moreover they were already given liberty by the Allahabad bench also to take appropriate action in case applicants therein commit any misconduct, therefore, the OA is found to be bereft of any merit. The same is accordingly dismissed. No order as to costs.

30/8/05
B

(Mrs. Meera Chhibber)
Member (J)

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