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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 1929/2004

New Delhi this the 4th day of August, 2005

Hon'ble Shri Shanker Raju, Member (J)

Bimal Krishna Dass,
S/O Shri Radha Ballabh Dass,
R/9 H-2/142, Bangali Colony,
Mahavir Enclave, Palam,
New Delhi-45

..Applicant

(By Advocate Shri Yogesh Sharma)

VERSUS

1. Union of India through
the Secretary,
Ministry of Agriculture, Govt. of India,
New Delhi.
2. The General Manager,
Delhi Milk Scheme, Govt. of India,
West Patel Nagar, New Delhi-8

..Respondents

(By Advocate Shri S.M.Arif)

O R D E R (ORAL)

Heard the learned counsel for the parties. The claim of the applicant is for appointment on regular establishment in Delhi Milk Scheme which has been rejected vide order dated 30.6.2003 is being assailed.

2. Earlier applicant has sought resort to this Court in OA 2600/2002 which was disposed of on 8.1.2003 with direction to the respondents to pass a reasoned order. In

pursuance thereof an order was passed on 30.6.2003 and 17.7.2004 whereby the claim of the applicant for regularization has been turned down.

3. Learned counsel in para 4.7 contended that from November, 1998 till October, 1999 he had worked for more than 240 days in 12 months and as per the Standing Order issued by the DMS on 15.6.1992, "a Badli worker who has actually worked for not less than 240 days in any period of 12 months shall be transferred to regular establishment governed by the Fundamental and Supplementary rules". Learned counsel has relied on a Division Bench judgement in **Brij Lal Belwal and Others Vs. Union of India through the Secretary and Ors. (1997) (3) SLJ 574** to contend that in DOP&T OM dated 10.9.1993 Scheme for regularization requisite 206 days in a year is considered to be even a broken periods and it has been held that one who has worked for 206 days in a year irrespective of the month would be entitled for consideration.

4. On the other hand, learned counsel of the respondents states that applicant has joined as Badli worker in May, 1998 to April, 1999. One year period is reckoned which would be either from the financial year or from the calendar year. In the above backdrop, it is stated that as the applicant was absent from March 1999 to May, 1999, he had not completed 240 days for consideration for regularization. It is further stated that thereafter the applicant was engaged from Jan 1999 to May, 2000 where he had completed only 228 days as such is not entitled for regularization.

5. On careful consideration of the rival contentions of the parties and keeping in view the Standing Order dated 15.6.1992 which provides as under:-

"A Badli worker, who has actually worked for not less than 240 days in any period of 12 months shall be transferred to regular establishment governed by the Fundamental and Supplementary Rules".

6. It is trite law that contextual and grammatical interpretation of rule or statute is the safest interpretation keeping in light the main object to be achieved. In the light of the Standing Order dated 15.6.1992, since it is a Welfare legislation, a Badli worker, who has actually worked for not less than 240 days in any period of 12 months shall be transferred to regular establishment. Nothing has been brought on record to establish that this period of 240 days is to be reckoned strictly from the date of initial joining as Badli Worker or on the basis of calendar or financial year.

7. An identical case was decided by the Division Bench in which the DOP&T Scheme promulgated by the Government on 10.9.1993. No doubt, 206 days service in a year is to be completed irrespective of the month of joining or completion of 240 days.

8. In my considered view, 12 months' period would be reckoned from a month from which applicant had been working and if continued from November, 1998 in the present case till October 1999, the applicant would have completed 240 days, which shall be considered as period of 12 months and on completion of 240 days he has a right to be considered for regularization.

9. A Welfare legislation would have to be interpreted in such a manner that it should not deprive of the fundamental right of consideration object of which is achieved to bring on regular establishment Badli worker and keeping harmonious welfare the Standing Order dated 15.6.1992 has to be interpreted in such a manner that if any period of 12 months applicant has completed 240 days of service he is entitled for consideration for appointment on regular establishment. The question of either financial year or calendar year or the date of joining would not be impediment for such consideration.

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10. In the result, impugned order is set aside. Respondents are directed to consider the case of applicant for appointment on regular establishment and in that event all consequential benefits are accorded to him. This process should be completed within a period of three months from the date of receipt of a copy of this order.

S. Raju

(Shanker Raju)
Member (J)

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