

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

NEW DELHI THIS THE 18th FEBRUARY, 1994. 9

HON'BLE MR. JUSTICE S.K. DHAON, VICE-CHAIRMAN (J)
HON'BLE MR. B.N. DHOUDIYAL, MEMBER (A)

OA No. 1229/93

Shri Shiv Narain
S/o Shri Balwar Paswan
R/o 695, Krishi Kunj
Type III
Pusa, IARI, New Delhi. ... Applicant
vs.

Union of India through
1. The Secretary,
Ministry of Agriculture
Deptt. of Agricultural Research & Education
Krishi Bhavan, New Delhi-110 001.
2. The Director General
Indian Council of Agricultural Research
Krishi Bhavan
New Delhi-110 001.
3. The Director,
Indian Agricultural Research Institute
Pusa New Delhi-110012.

OA No. 1230/93

Shri Ved Prakash
S/o Shri Dil Chand
R/o 318, Krishi Kunj,
IARI
Pusa, New Delhi. Applicant
vs.

Union of India through
1. The Secretary,
Ministry of Agriculture,
Department of Agricultural Research & Education
Krishi Bhavan
New Delhi-110 001
2. The Director General
Indian Council of Agricultural Research
Krishi Bhavan,
New Delhi.
3. The Director
Indian Agricultural Research Institute
Pusa
New Delhi-110 012. ... Respondents

OA No. 1311/93

Shri Umesh Paswan
S/o Shri Nageshwar Paswan
R/o I-295, Chidia Colony
Pusa, New Delhi-110 012 Applicant
vs.

Union of India through
1. The Secretary,
Ministry of Agriculture
Deptt. of Agricultural Research & Education
Krishi Bhavan
New Delhi-110 001.
2. The Director General,
Indian Council of Agricultural Research.
Krishi Bhavan,
New Delhi-110 001. 4

3. The Director,
Indian Agricultural Research Institute
Pusa, New Delhi-110 012..... Respondents

OA No:1330/93

Shri Maheshwar Dass
S/o Shri Rameshwar Dass,
R/o 1577, Krishi Kunj
IARI, Pusa
New Delhi-110 012 ... Applicant

vs.

Union of India through

1. The Secretary,
Ministry of Agriculture
Deptt. of Agricultural Research & Education,
Krishi Bhavan
New Delhi-110 001.

2. The Director General
Indian Agricultural Research
Krishi Bhavan,
New Delhi-110 001

3. The Director
Indian Agricultural Research Institute
Pusa
New Delhi -110 012. ... Respondents

OA No:1331/93

Shri Visheshwar Das
S/o Shri Rameshwar Dass
R/o 1577, Krishi Kunj,
IARI, Pusa, New Delhi-110 012.... Applicant

vs.

Union of India through

1. The Secretary,
Ministry of Agriculture
Deptt. of Agricultural Research & Education
Krishi Bhavan,
New Delhi-110 001.

2. The Director General
Indian Council of Agricultural Research
Krishi Bhavan,
New Delhi-110 012

3. The Director,
Indian Agricultural Research Institute
Pusa, New Delhi-110 012..... Respondents

OA No:1332/93

Shri Sehdev Rai
S/o Shri Brahm Dev Rai
R/o 826 Krishi Kunj
IARI, Pusa, New Delhi-110012. ... Applicant

vs.

Union of India through

1. The Secretary,
Ministry of Agriculture
Deptt. of Agricultural Research & Education
Krishi Bhavan
New Delhi-110001

2. The Director General
Indian Council of Agricultural Research
Krishi Bhavan,
New Delhi-110 001.

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3. The Director,
Indian Agricultural Research Institute
Pusa, New Delhi-110012 Respondents

OA No. 1333/93

Shri Surender Rai
S/o Nokhe Lal Rai
R/o 114-WZ Toda, Pusa
New Delhi-110 012 ... Applicant

vs.

Union of India through

1. The Secretary,
Ministry of Agriculture
Deptt. of Agricultural Research & Education
Krishi Bhavan,
New Delhi-110001

2. The Director General
Indian Council of Agricultural Research
Krishi Bhavan,
New Delhi.

3. The Director
Indian Agricultural Research Institute
Pusa
New Delhi-110 012 ... Respondents

APPLICANTS BY SHRI R.K.KAMAL AND SHRI K.L.BHATIA,
COUNSEL.

RESPONDENTS BY SHRI MANOJ CHATTERJEE, COUNSEL.

ORDER

JUSTICE S.K.DHAON:

The controversies involved in these cases are similar. They have been heard together and, therefore, they are being disposed by a common judgement.

2. The case set up by the applicants is this. The applicants describe themselves as casual labourers. They were employed as such in the different units of the Indian Agricultural Research Institute (IARI). They were sponsored by the Delhi Employment Exchange. There is a constant shortage of Group 'D' staff in the various units of the IARI. The need of the casual labourers in the IARI is of perennial nature. They have been performing the duties of Group 'D' staff while they are getting the wages on daily rate basis. The regular employees of Group 'D' status are getting pay in the

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regular scale of pay along with allowances and other facilities like benefits of leave, medical, uniform, accommodation and retirements but the applicants have been denied all these facilities although they have been working on par with the regular Group 'D' employees of the IARI. During the course of employment, the respondents have been giving them technical breaks of a few days with a view to avoid the demand for regularisation. Sometimes outsiders are employed in their places for short periods and thereafter they are again engaged as casual labourers. The respondents have been adopting the policy of hire and fire.

3. The reliefs claimed by the applicants are these:-

(1) Respondents may be directed to appoint the applicants on regular basis against Group 'D' posts with all consequential benefits.

(2) The applicants may be paid salary and allowances on regular basis of Rs.750-950 as is being ^{paid} to Group 'D' employees of the respondents.

(3) The applicants may be allowed to work and continue in service without any break and their services may not be terminated as there is no reduction of work or abolition of posts.

4. We shall be referring to the factual averments made in OA No.1229/93 (Shri Shiv Narain Vs. U.O.I & ors.) while treating the same as the leading case. The averments made in the other OAs are substantially the same as in OA No.1229/93.

5. In OA No.1229/93, apart from general

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averments as catalogued above, specific averments are these. The applicant has been working as a casual labourer since December, 1990. He has completed 240 days/206 days as a casual labourer. He is not allowed to work since the last week of December, 1992. He has not been given any written order of termination but he has been told that he will be re-engaged after some time as has been the practice in the past. Juniors to him have been retained and outsiders have been employed (in para 4.10 of the OA, the names of such persons are mentioned).

6. A counter-affidavit has been filed on behalf of the respondents by Dr. S.K. Sinha, Director of the IARI in OA No. 1229/93. Similar but separate counter-affidavits have been filed in the other cases. Therein, the material averments are these. The applicants are daily paid labours (DPLs). The IARI has been maintaining a list of those DPLs who have worked for more than 240 days in one complete year and also a list of those DPLs who have not completed 240 days and who have either voluntarily or in response to an office circular submitted their certificates enabling the IARI to prepare a seniority list of DPLs who would be engaged as per their seniority as and when vacancies arise in various divisions of the IARI. The question of appointing a DPL as a regular employee arises only when he has worked for 240 days each in two consecutive years and vacancy arises for engagement against a regular class IV employee. The applicant (Shri Shiv Narain) who was engaged as a DPL had been disengaged after the specific job for which he was engaged, ceased. It is incorrect to state that his services were dispensed with while juniors to him had been retained in service. Till recently, the DPLs have always been engaged through the Employment Exchange in the event of a sudden/emergent need arising in the IARI. The IARI has no role to play in the preparation of the list of the candidates which is forwarded by the Employment Exchange. The nature and the type of the work in the IARI is such that the same is not

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continuous. The job assigned too is not of continuous nature. The work, and temporary jobs are altogether separate and independent of usual work and arise all of sudden which is completely unforeseen. The applicant was engaged in the IARI as a DPI when need arose for engaging a DPI in various departments of the IARI. DPIs are always engaged to undertake casual, unskilled, seasonal and temporary work and they are disengaged as soon as the job ceases. The various departments of the IARI have issued work certificates to the DPIs for the number of days each candidate worked with them in the respective departments. The applicant was not appointed by the IARI. He was merely engaged as a DPI to do a particular temporary job as his name was sponsored by the Employment Exchange. The job for which he had been engaged had been seasonal and temporary one. The applicant has not performed the duties similar to those of Group 'D' staff of the IARI. The DPIs are engaged only when certain casual seasonal unskilled job is required to be undertaken by the IARI which is a prime agricultural institute where field research work is undertaken. In the event of temporary shortage of regular staff for a very brief period as well as ^{for} undertaking some seasonal and casual types of job, DPIs are engaged by the IARI so that the research work is not hampered. Under no stretch of imagination, any right whatsoever accrued in favour of the applicant to claim any benefits/status of the Group 'D' regular employees of the respondents. The applicant has not worked for 240 days as a DPI in one complete year in the IARI.

According to applicant's own case, as evidenced by the documents produced by him, he had worked for 57, 42 and 172 days respectively during the years '90, '91 and '92. The IARI has been maintaining a list of the DPIs who have completed 240 days of engagement in the IARI and it has been engaging those DPIs in preference to the DPIs sponsored by the Employment Exchange. Now, the IARI has prepared a comprehensive list of DPIs who have worked with

them and is engaging those DPLs in preference to their juniors and outsiders. The IARI have definite set of recruitment rules which are adhered to for recruitment of Group 'D' employees which are not applicable for engagement of a DPL. It is wrong to suggest that the respondents have been giving a technical break to avoid and deny the applicants' demand for regularisation. The list of persons as furnished by the applicant in paragraph 4.10 of the O.A. has no relevance as there is no person who is junior/senior to a DPL whose records have not been maintained. The applicant's claim of seniority over those who have been engaged earlier is not tenable as there is no record available with the respondents. On 31.10.1992 the respondents issued a circular inviting names of those DPLs (not in one year) who have completed 240 days in all and in response to the same, the applicant also represented along with many other DPLs. On the basis of such representations, the respondents have prepared a tentative list and have taken appropriate steps to engage them as and when required. The IARI is issuing a Public Notice calling upon those DPLs who had been engaged as such to prepare a final and comprehensive list for engagement.

7. A rejoinder-affidavit too has also been filed on behalf of the applicant.

8. The following features emerge from the exchange of affidavits between the parties:-

(i) A DPL is eligible to be considered for regularisation of his services, if he has rendered service to the IARI for 240 days each in two consecutive years and if there is a vacancy.

(ii) The IARI maintains a list of those DPLs who have rendered service for 240 days or more in one particular year.

(iii) The IARI maintains a list of DPLs who have not rendered 240 days of service ^{in one} year.

(iv) The IARI employs DPLs through the Employment Exchange for a particular work. The said work is not of

permanent nature. The employment is for a specific work. The services of a DPL come to an end on the completion of the work. We have considered the policy adopted by the IARI in the matter of employment of the DPLs. On the whole, the policy has an in-built safeguard to avoid arbitrariness and violation of Articles 14 and 16 of the Constitution. The system adopted by the IARI appears to be fair and in working that system, the likelihood of pick and choose is remote. No irrationality or element of arbitrariness is discernible in the system evolved. If a specific act or

action results in arbitrariness, the same is subject to examination.

10. Stress has been laid by the counsel for the applicant that the I.A.R.I. is acting in violation of the well-known principle evolved in the service jurisprudence namely, "last come first go". This is a principle evolved in the case of retrenchment of a workman from service on the ground that he has been rendered surplus. It is implicit in the expression "surplus" that the purpose of employment continues to exist. In the instant case, the purpose of employment which is of a short duration comes to an end upon the completion of the work for which the DPLs are engaged for casual work through the Employment Exchange.

11. None of the applicants has been able to establish that they have rendered service to the IARI for 240 days continuously in one year though in the rejoinder-affidavit filed, new facts have been introduced. Those facts cannot be taken into account. A grievance has also been made that, although the names of some of the applicants are included in the list of those DPLs who have rendered 240 days of service in all though, not in one year but ^{they} have not been given their proper seniority. The Director of I.A.R.I. shall, therefore, examine the cases of such of the applicants who assert that they have rendered 240 days of service to the IARI, though

not in one year. He shall also examine the grievance of the applicants that they have not been given a proper placing in the list prepared by the IARI. The decision of the Director shall be subject to revision by the Chairman of the IARI, whose decision shall be final.

12. In the event, the applicants are not entitled to any relief. With the above observations, these applications are dismissed but without any order as to costs.

(B.N. DHOUNDIYAL)
MEMBER (A)

(S.K. DHAON)
VICE CHAIRMAN

SNS

Original order are in OA 1229/93

Attached into copy

Anil Chandra

Co. CP 18-02-94

P.B. CAT,

New Delhi