

Central Administrative Tribunal
Principal Bench: New Delhi

(X)

OA No.2414/93

New Delhi this the 26th Day of May, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A)
Sh. C.J. Roy, Member (J)

Upendar Thakur,
S/o Sh. Ram Chander Thakur,
R/o 1-2, Block No.1,
Pusa Campus, Chindia Colony,
I.A.R.I. New Delhi.Applicant

(None for the applicant)

Versus

1. The Director General,
Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi.
2. Director,
Indian Agricultural Research Institute,
Pusa,
New Delhi.Respondents

(By Advocate Ms. K. Iyer)

ORDER
Mr. N.V. Krishnan:-

The applicant claims to be a casual labourer in the Indian Council of Agricultural Research, i.e., under respondent No.1. His grievance is that the respondents have by arbitrary and discriminatory verbal orders dispensed with the services of the applicant as casual labourer while retaining juniors and outsiders. It is stated that the applicant was deployed to work in different units which are at Annexure A-3. The particulars of engagement certified are as follows:-

1986 (Upto June)	59 days.
1986 (July to December)	15 days.
1987 (April to October)	156 days.
1989	11 days.
1990	12 $\frac{1}{2}$ days
1993 (Upto July 1993)	12 days.
Total:	265 $\frac{1}{2}$

(K)

It is stated that the applicant was not allowed to work after May, 1990 though his juniors were retained and fresh persons were recruited. He has given names of some juniors in para-4.3.

2. It is stated that the respondents issued a circular on 31.10.92 in which persons who have completed about 200 days or more but not worked for 240 days in a year, should meet the authority who have issued the letter to prepare a list of such employees. It is stated that the applicant reported in pursuance of this direction and he submitted a representation. It is alleged that the respondents are following the policy of hire and fire and that the applicant must be disengaged.

3. The following reliefs are sought:-

"i) THAT the Respondents may be directed to appoint the applicant on regular basis against Group 'D' post with all consequential benefits.

ii) THAT the applicant may be paid salary and allowances on regular basis of Rs.750/950 as is being given to Group 'D' employees of the Respondents working under them.

iii) THAT the applicant may be allowed to join and continue in service without any break and his services may not be terminated as there is no reduction of work or abolition of posts."

4. The respondents have filed a reply stating that on his own submission, the applicant has not worked for 240 days in any year. The respondents have prepared a list of labourers who have worked for 240 days in any year. They have also prepared a second list of persons who have obtained orders from the Court. A third list is prepared of those who have submitted the experience certificates but have not worked for 240 days in any year. This list contains 299 names. The learned counsel submits that the name of the applicant has been included

in this list and his name is at serial No.68. It is stated that a batch of similar cases OA-1229/93 etc. has been decided by another Bench of this Tribunal on 18.2.94 in which the applicants had claimed similar reliefs. That O.A. has been disposed of and the respondents request that the present O.A. be disposed of on the same basis.

5. We have heard the learned counsel. We notice that the applicant has not served for 240 days or more in any one year and, therefore, the question of his regularisation does not arise. However, he has rendered some service as a casual labourer as evident from the Annexure-III certificates produced by him. Therefore, the respondents have to consider his case for engagement in case any person with a lesser number of total service is engaged by them for casual work and the applicant is also entitled to be considered for regularisation, in case the respondents take up for consideration the cases of those who have put in 240 days or more of service but not necessarily in one year. In the circumstances, we dispose of this application with the following directions:-

- i) We notice that the applicant's name is already listed at serial No.68 in the third list, i.e., of those who have filed experience certificate but have not rendered 240 days' service in one year. The applicant is, therefore, entitled to be engaged on casual basis in case the need for such engagement arises in preference to those who have rendered less total service than him as a casual labourer.

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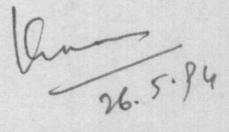
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ii) In case the respondents consider the question of regularisation of persons who have worked 240 days, but not in one year, the case of the applicant for regularisation should also be considered on that basis according to his turn based on his seniority reckoned on the basis of the total number of days worked by him.

6. The O.A. is disposed of, as above, with no order as to costs.

(C.J. Roy)
Member(J)

'Sanju'


26.5.94
(N.V. Krishnan)
Vice-Chairman