

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 21st day of April 2004.

Original Application no. 1151 of 1998.

Hon'ble Maj Gen K K Srivastava, Member-A

1. Nagesh Chandra, S/o Sri S.N. Pandey
2. Rajesh Kumar, S/o Sri S.S. Sharma
3. Rakesh Chandra Pandey, S/o Sri Sarju Narain Pandey,
4. Sri Vijay Kumar, S/o Sri NandRam
5. Sunder Lal, S/o Mata Din
6. Sohan Lal, S/o Shanker Dass

All C/o Military Farm Cantt,
Kanpur Nagar.

... Applicants

By Adv : Sri Pankaj Bhatia

V E R S U S

1. Union of India, through the Secretary,
Ministry of Defence, Army Headquarters,
NEW DELHI.
2. The Director General, Military Farm,
Army Headquarters, GMG's Branch, R.K. Puram,
West Block - III.
NEW DELHI.
3. The Director, Military Farm, Headquarter, Central Command,
LUCKNOW - 2.
4. The Officer Incharge, Military Farm,
KANPUR.

... Respondents

By Adv : Sri S. Chaturvedi

O R D E R

Maj Gen K K Srivastava, AM.

By this OA, filed under Section 19 of the A.T. Act,
1985, the applicants have prayed for direction to the
respondents for regularisation of their services after

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quashing the order dated 01.09.1998 (Ann 6) passed against the applicant no. 6 only.

2. The facts of the case, in short, are that the applicants were initially engaged as casual labour on different dates during the year 1990 to 1993 except that the applicant was initially engaged as casual labour in the year 1983. The grievance of the applicants is that though they have worked in the respondent's establishment for number of years, yet their services have been terminated by oral order in the year 1998. Aggrieved by the same, this OA has been filed which has been contested by the respondents by filing counter affidavit.

3. Sri Pankaj Bhatia, learned counsel for the applicant submitted that one Sri Hem Raj, who was not only junior to the applicants, but had also been removed from the service on the ground of theft and his application number 1658 of 1982 for regularisation was dismissed by this Tribunal, yet he has been regularised, whereas the applicants have not been regularised. Applicant's counsel also submitted that even if it is accepted that Sri Hem Raj was not junior to the applicants, but once he was removed from service on the ground of theft, his re-appointment/re-engagement shall not confer any right of seniority on account of past services. Applicant's counsel also submitted that there are two more persons whose services have been regularised and they are also junior to the applicants. The applicants have worked for considerable period and as per law laid down by the Hon'ble Supreme Court that if one is working for a long period the respondents

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cannot plead that there is no requirement of job.

4. Learned counsel for the applicant finally submitted that the respondents are resorting to illegal practice of extracting work through contractor and have illegally terminated the services of the applicants. Infact the contractor is getting the work done only through the applicants and, therefore, the respondents cannot plead that there is no requirement of job which the applicants were performing. Learned counsel for the applicants has placed reliance on the judgment of Hon'ble Supreme Court in case of State of Haryana and others, etc., etc. Vs. Piara Singh and others, etc. etc., (1992) 2 UPLBEC 1353 and also order of this Tribunal dated 26.5.2000 passed in OA no. 1695 of 1992, Rakesh Chandra Sharma & Others Vs. Union of India & Others. He has also placed reliance on the judgment of Hon'ble Allahabad High Court in case of Jai Prakash Sharma Vs. State of Uttar Pradesh & Ors 1992 AWC 952 and also judgment of Hon'ble Allahabad High Court in case of Satya Deo Mishra Vs. State of U.P. and another, 1995 AWC 1800, wherein the Hon'ble Allahabad High Court has held that the termination of services after putting in long years of service on the ground that service is no longer required is wholly arbitrary and unreasonable.

5. Resisting the claim of the applicant, Sri S. Chaturvedi, learned counsel for the respondents submitted that in Military Farm Kanpur the total permanent strength of Group D staff has been reduced considerably from 263 to 43. The

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Army Headquarters has also ruled vide order dated 20.07.1998 that requirement of permanent staff of Group 'D' will not be increased, besides directing for the adjustment of surplus regular staff. In view of the above there is no requirement of any casual labour.

6. Learned counsel for the respondents further submitted that further to that, vide order dated 04.05.2001 (Ann SA2), the permanent strength of Group 'D' has further been reduced from 43 to 29. Since there is no vacant post of Group 'D' staff available, the claim of the applicants cannot be considered. The respondent's counsel also submitted that presently there is a ban on recruitment.

7. We have heard learned counsel for the parties, considered their submissions and perused records.

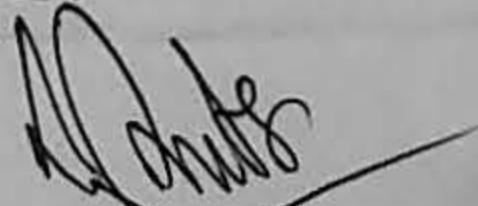
8. Admittedly, the applicants had been working for a considerable period in the respondent's establishment as casual labour. Due to reduction in the permanent establishment of the respondent's establishment the applicants have been restrained from working as casual labour. I have seen that such a situation has arisen not only in Military Farm, Kanpur but also in other Military Farms, where the services of the casual labours have been dispensed-with because of the reduction in the establishment. This has given rise to discontentment ^{in different Military Farms} all along resulting into firing of number of QAs. It will be appropriate, if the issue is clinched for all the time to come. I have no doubt in my mind that in view of the ban on the recruitment and also want of vacancies I cannot issue any order for the ^{of applicants} regularisation. Besides I would like to observe that the

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permanent staff which has been rendered surplus due to reduction in permanent establishment has the first right to be adjusted against the existing vacancies and only then the claim of the applicants or similarly situated persons, can be considered. Therefore, a proper policy in this regard is required to be followed.

9. In the facts and circumstances the OA is finally disposed of with direction to the respondents to maintain a Live Casual Labour Register (in short LCLR) by each Farm, of such persons, as the applicants are, and action is taken to regularise them against the vacancies presently existing or to occur in future (Obviously no surplus staff remains to be adjusted against) as per seniority. Till the list of such persons, as borne on the LCLR, is exhausted the respondents are restrained from making any fresh selection of Group 'D' post from the open market. If required, the age relaxation be granted to the applicants at the time of regularisation as per law.

10. There shall be no order as to costs.


Member (A)

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