

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD**

Dated: This the 25th day of November 2016

HON'BLE DR. MURTAZA ALI, MEMBER - I

Original Application No. 144 of 2004

1. Chandan Singh son of Sri Kamta Prasad Resident of 76, Chak Niratul, Post Office Tej Bahadur Sapru Nagar, District Allahabad.
2. Sunil Kumar son of Shri Bhai Lal, Resident of House No. 86, Post Office Chak Niratul, Chauphatka, District Allahabad.
3. Jai Murat son of Sri Lal Chand Yadav resident of Military Farm, Allahabad Permanent resident of Village and Post Gouspur, District Ghazipur.
4. Rajendra Kumar Singh son of Shri Shubhagaman Singh, Resident of Military Farm, Allahabad, Permanent Address Village & Post Moon Chhpra, District Ballia.

.....Applicants

By Adv: Shri Manoj Dhrubvanshi

V E R S U S

1. Union of India through Secretary Ministry of Defence, New Delhi.
2. Union of India through Dy. Director General, Military Farm, Army Head Quarter O.M.G's Branch, Block No. 3 R.K. Puram, New Delhi 110066.
3. The Director of Military Farm, Head Quarter Central Command, Lucknow -2.
4. The Officer Incharge, Military Farm, Allahabad.

..... Respondents

By Adv: Shri R.K. Srivastava



ORDER

The instant O.A. has been filed under Section 19 of the Administrative Tribunals Act 1985 seeking following relief (s) -

- “(a) *The Hon’ble Tribunal may graciously be pleased to issue writ, order or direction in the nature of certiorari setting aside/quashing the impugned termination order dated 31.01.2004 passed by respondent No. 4 Officer Incharge, Military Farm, Allahabad.***
- (b) *The Hon’ble Tribunal may be pleased to issue a writ order or direction in the nature of mandamus directing the respondents to regularize the services of the applicants.***
- (c) *To issue a writ, order or direction in the nature of mandamus commanding and directing the respondents to pay the salary due and to be due in future to the applicants and the arrears with interest thereon.***
- (d) *To issue any other suitable writ, order or direction which this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case; and***
- (e) *To award cost of this application to the applicants throughout”.***

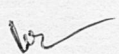
2. The brief facts of the case are that the applicants were engaged as Casual Labourer between 1988 and 1990 in the Military Farm at Allahabad and they were also given temporary status in the year 1996. After completion of 3 years of temporary status, the applicants submitted applications for regularization of their services against existing vacancies but their matter was kept pending while several similarly situated persons were regularized. The respondent No. 4 terminated their services verbally on 27.5.1999 without giving any opportunity of hearing.

for

The applicants filed O.A. No 948 of 1999 against oral orders of termination dated 27.5.1999 and the said O.A. was allowed by this Tribunal vide order dated 28.11.2000. The writ petition filed against the said order has also been dismissed by Allahabad High Court vide order dated 2.7.2001. When the respondents did not comply with the order of this Tribunal, the applicants had filed Contempt Petition No.145/2001 against them and in compliance of order of Tribunal dated 28.11.2000, the respondents No. 4 issued an order dated 14.8.2001 by which the applicants were advised to report his office to work as Casual Labour and it was assured that they shall be considered for regularization as soon as the posts are available.

3. It is also stated that the services of applicants have again been terminated vide impugned order dated 1.2.2004. The applicants preferred representations dated 31.1.2004 against their termination order but no heed has yet been paid and they are out of job w.e.f. 1.2.2004.

4. In the counter reply filed on behalf of respondents, it has been stated that the Military Farm is a quasi commercial production oriented organization of Army and its main aim is to rear cross breed and Frieswal cows and their milk/milk products are supplied to troops. It is further stated that new accounting system was introduced to check the viability of Military Farms




w.e.f. 1.4.1997. The permanent establishment of all the Farms was reduced to make the organization more cost effective. The services of all Casual Labourers were terminated w.e.f. 1.9.1998 and 60 regular Group 'D' staff were also declared surplus and they were posted to other departments. There was no work for casual labourers since 1.9.1998 at Military Farm Allahabad and no one was engaged as casual labourer after 1.9.1998. It has been admitted that the applicants were reengaged at the Military Farm in compliance of order dated 28.11.2000 passed by this Tribunal in OA No. 948 of 1999. It has also been stated that due to revival of peace establishment of Military Farm Allahabad, 11 permanent Group 'D' staff had become surplus and they have been adjusted in other units vide order dated 15.12.2003. Due to reduction of work and peace establishment of Military Farm Allahabad, the services of applicants have again been terminated vide order dated 31.1.2004. It has also been stated that whenever any casual or regular vacancy would be occurred, the applicants shall be considered sympathetically for reemployment.

5. In the rejoinder, the applicants reiterated the averments made in the O.A. and further stated that the respondents are engaging labourers on casual basis from open market while OM dated 10.9.1993 (Annexure A-9) has provided the guidelines for grant of temporary status and regularization of casual labourers. It has also been stated that the Army Headquarter has also framed



policy to regularize the casual employees vide letter dated 15.12.1998 (Annexure A-10) but the applicants have been deprived of the benefit of regularization. It has been alleged that proper procedure was not followed in terminating the services of the applicants.

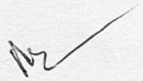
6. In the supplementary affidavit dated 26.7.2016 filed on behalf of applicants, the applicants reiterated the averments made in the OA and rejoinder and further stated that a similar and identical OA No. 918 of 1999 was allowed on 8.5.2003 and the respondents have permitted the applicants of that O.A to join as CLTS vide orders dated 19.10.2013 and 2.5.2014 (Annexure SA-3). It is also stated that in compliance of various orders passed by this Tribunal in Execution Applications filed by the applicants of different O.As, the respondents have issued offer of appointment to several similarly situated persons on 5.7.2016 (Annexure SA-6). It is also stated that there is deficiency of casual labourers in the Military Farm and the services of applicants were terminated mainly on the ground that work was not available. It has been alleged that several junior persons have been allowed to work without considering the claim of applicants. Thus it has been prayed that the respondents may be directed to consider reengagement of applicants.



7. Heard Shri M.K Dhrubvanshi counsel for the applicants and Shri R.K Srivastava counsel for the respondents and perused the record.

8. It has been argued on behalf of applicants that they were working as Casual Labours in the Military Farm Allahabad and they were given temporary status in the year 1996. Firstly their services were orally terminated on 27.5.1999 and in compliance of order dated 28.11.2002 passed by the Tribunal in OA No.948 of 1999, the respondents took back the applicants on job and assured them that their case for regularization would be considered as soon as the posts are available. It has further been submitted that the services of the applicants were again terminated vide impugned order dated 1.2.2004 against which the applicants had preferred representations dated 31.1.2004, 2.2.2004 and 3.2.2004. It has been stated that in a similar and identical O.A. NO. 918 of 1999, which was allowed on 8.5.2003, the respondents have allowed their applicants to join as CLTS vide order dated 19.10.2013 and 2.5.2014 (Annexure SA-3). It has been prayed that the respondents may be directed to decide their pending representations and allow them to work as similarly situated junior persons have already been engaged.

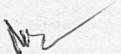
9. I have gone through the order dated 8.5.2003 passed in O.A. No. 918 of 1999 which has been narrated in the order dated



7.9.2012 passed by this Tribunal in Civil Misc. Execution No. 09 of 2011 (Annexure SA-2). The said order reads as under –

“The O.A. is allowed. The impugned oral termination order dated 11.1.1999 is quashed. Respondents are directed to take back the applicant in job. However, the applicant will not be entitled for the back wages. The applicant shall be deemed in continuous service for the purposes of regularization”.

10. It is noted that in order to execute the above order, the applicant Bindeshwari Prasad had filed Execution Application No. 09 of 2011, which was allowed vide order dated 7.9.2012 and the respondents were directed to comply the order of Tribunal dated 8.5.2013 within a period of 3 months. It is also observed that in compliance of above order, the respondents directed the applicant Shri Bindeshwari Prasad to join the post of CLTS, on which he was working on the date of oral termination dated 11.01.1999 vide letter dated 19.10.2013 (Annexure SA-3). It is also noted that in compliance of order dated 29.9.2014 passed in Civil Misc. Execution Application No. 02 of 2011 in O.A No.324/99, the respondents re-engaged the applicants vide order dated 5.7.2011 (Annexure A-6 – page 37) and in compliance of order dated 12.1.2016 passed in Misc. Execution Application No. 15 of 2014 in O.A No. 284/99, the applicant was re-engaged vide order dated 5.7.2016 (Annexure SA-6) and in compliance of order dated 29.8.2014 passed in Misc. Execution Application No. 04 of 2011 in

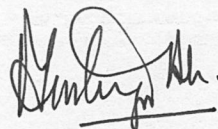


O.A. No. 411 of 1999, the applicant of O.A. have been re-engaged vide order dated 5.11.2016 (Annexure SA-6 page 38).

11. Learned counsel for the applicants have also drawn our attention to the letter dated 31.8.2015 (Annexure SA-7) issued by the Manager/Officer Incharge, Military Farm, Allahabad to the Headquarter Central Command, Lucknow intimating the vacancy position at Farm House Allahabad which shows that there was a deficiency of 17 posts against 34 authorized strength.

12. In view of various re-engagements made by the respondents and considering the vacancy position at Farm House Allahabad, the O.A is disposed of with the direction to the respondents to consider and decide the pending representations dated 31.1.2004, 2.2.2004 and 3.2.2004 preferred by the applicants and pass appropriate order in accordance with law within a period of 2 months from the date of receipt of this order.

There is no order as to costs.



Member (J)

Manish/-