

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated : This the 15th day of Sept 2005.

Original Application No. 258 of 2004.

Hon'ble Mr. K.B.S. Rajan, Member (J)

1. Lalji Yadav, S/o Sri Ram Singh
R/o 116/1 82-A Chowapatake, Chak Niratul,
ALLAHABAD.
2. Santosh Kumar, S/o Sri Shanker Lal,
R/o 50/34, Bhola-Ka-Pura, Sulem Sarai,
ALLAHABAD.

... Applicants

By Adv : Sri R.R. Tripathi

VERSUS

1. Union of India through Secretary to Govt. of India,
Ministry of Defence, DHQ PO,
NEW DELHI.
2. The Deputy Director General,
Military Farms Quartermaster General's Branch,
Army Headquarters,
Block No. 3, R.K. Puram,
NEW DELHI.
3. The Director of Military Farms,
Headquarters Central Command,
LUCKNOW-2
4. The Officer Incharge, Military Farms,
ALLAHABAD.

...Respondents

By Adv : Sri S. Srivastava

ORDER

By K.B.S. Rajan, JM

The applicants (two in number) have prayed, through this O.A, a direction to the respondents to regularise their services either in the Military Farms under Command Headquarters, Lucknow or their names

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be forwarded to the A.G. Branch, Army Headquarters for adjustment elsewhere under the provisions of Special Army orders 8/S/76.

2. The facts of the case are that the applicant no. 1 was engaged as casual labourers in February, 1990 by the Officer Incharge, Military Farms, Allahabad, while the applicant no.2, in September, 1991 in the same capacity and by the same authority. They were given temporary status in the year 1996. However, in March, 1999, their services were terminated. The applicants contend that several persons were regularised and the applicants were singled out. The representations submitted by them not resulting in a favourable response, they had approached the Tribunal with the above prayers.

3. The respondents have filed their Counter. In their brief background of the case, it has been stated that with the introduction of new accounting system, it was found that commercial viability of the Military Farms was found to be vulnerable consequent which about 60 regular Group 'D' Staff were to be rendered surplus and posted to other departments through A.G. Branch. And, from 1.9.1998. not a single casual labourer was engaged . It has been stated in the counter that earlier the applicants filed O.A 284 of 1999 which was decided on 4.6.2003 and expressing its considered view that no establishment can be forced to engage or employ the person over and above the sanctioned strength/requirement, the Tribunal had observed that in case any necessity to engage causal labourer arises in future, due priority be given to the applicants keeping in view the working days of the applicants in the respondents establishment.

4. Arguments were heard and documents perused. The ground reality is that Military Farms are diminishing and as stated by the respondents, there seems to be absolutely no requirement for

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engaging casual labourers when, the respondents had to render surplus sizeable number of their regular Group 'D' employees. As such, the prayer of the applicants for a direction to the respondents to regularise the services of the applicants in the Military Farm cannot be accepted as the employer cannot be mandated to accommodate them. Thus order of the Tribunal in OA 284/1999 has to be strictly followed.

5. As regards the alternative prayer, i.e. Directing the respondents to refer the names of the applicants to the Army Headquarters for adjustments elsewhere on the basis of SAO 8/S/76, it was argued by the counsel for the respondents that the said order could be operational only when surpluses or in the regular employment. However, the counsel for the applicant invited my attention to para 27 of the said Spl. Army Order. No doubt, para 27 relates to T.A and joining time wherein it is stated that T.A and joining time will not be admissible to the casual employees. The learned counsel for the applicants relied upon the same to press into service his point that the said paragraph reflects that the order is applicable to casual labourers also. I find some substance in this argument. In all expectations, there may be a number of casual workers formerly engaged in Military Farms who would have faced dis-engagement like the applicants. It will, therefore, be in the interest of justice if the Army Headquarters considers maintaining a casual labourer Live Register wherein on the basis of total number of days worked, seniority of such dis-engaged casual workers be maintained and priority as against fresh hands from market be given to such former casual workers in case necessity is felt to engage casual workers in other units/formations. For the purpose of working out seniority, the Army Headquarters may formulate their own scheme either Command wise or Geographical territory wise. Again, this observation does not by any way give to the applicants any vested

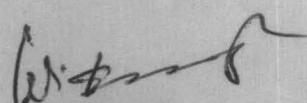
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rights what-so-ever, for SAO 5/S/76 being non-statutory in character (unlike Army Instructions) no right can be claimed on the basis of such Army or Special Army Orders. It is purely for the respondents to either accept the suggestion or drop it for plausible and unjustifiable reasons. It is sanguinely hoped that the Respondents would deliberate on this point and arrive at a just conclusion as expeditiously as possible, preferably within a period of six months from the date of communication of this order.

6. With the above observations, the O.A. Stands disposed of . Incase, the Army Headquarters finds it feasible to frame a casual labour Live Register as aforesaid, they may inform the applicants of their seniority in the Live Register and the probable period when the applicants may be called for engagement as Casual Labourer. In case it is not feasible to maintain such a Live Register, even then, that decision may be communicated to the applicants in order to avoid their hoping against hope.

No costs.



MEMBER-J

GIRISH/-