CENTRAL ADMINISTRATIVE TRIBUNAL
ALLA HABAD BENCH
ALLAHABAD.

Transfer Application No. 1891 of 1987
(Writ Petition No. 18435 of 1985)

Allahabad this the 29th day of Nov. 1995

Hon'ble Dr. R.K. Saxena, Member (J)
Hon'ble Mr. D.S. Baweja, Member (A)

Bhartiya Charagah Evam Chara Anusandhan Sansthan Shramik Union, Pahuj Bandhan Gwalior Road, Jhansi.

PETITIONER

By Advocate Shri O.P. Gupta.

Versus

1. Indian Grassland And Fodder Research Institute,, Jhansi.
2. Council of Agricultural Research, Krishi Bhawan, New Delhi.

RESPONDENTS.

By Advocate Shri J.N. Tewari.

O R D E R

By Hon'ble Dr. R.K. Saxena, Member (J)

This petition was originally filed in the High Court as W.P. 18435/85 and was received in the Tribunal on transfer and was given no. T.A. 1891/87.

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2. The petition was filed by the Union - Bhartiya Charagah Evam Chara Anusandhan Sansthan Shramik Union- in a representative capacity. It is contended that the Institute has employed near about 400 employees and most of the employees are the members of the Union-the petitioner. The Union has got a right to represent its members in litigation and to espouse their cause and file cases on their behalf. The present petition is filed on behalf of 228 employees whose names are mentioned in annexure-1.

3. It is contended that the employees in annexure-1 joined the Institute on different dates as given in the annexure-1 itself. It may be noted that the date of joining of employees from serial no.201 to 218 has not been given but others joined between 28.8.1963 and 20.6.1983. The case of the petitioner is that the employees in annexure-1 are working with the respondent no.1 for the last more than 22 years but they are being treated as casual employees and payment was made as daily wagers at the rate of Rs.9.25 per day which was raised to Rs.11.75 per day. They are niether paid dearness allowance nor are granted weekly holidays. and paid holidays. Casual and medical leave and leave of national holidays were denied to them.

4, It is further contended that the respondent no.1 had sent the list of 376

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casual employees to the respondent no.2 vide annexure-2. Out of those 376 casual employees, the services of 52 employees were regularised and remaining are still serving as casual employees.. It is therefore, prayed that 228 employees shown in annexure-1, be placed in the pay scale of Rs.196-232 p.m. and other consequential benefits such as paid holidays- and casual and medical leave, be allowed. Their regularisation is also prayed.

5. One Sri J.K. Kewalramani filed counter-affidavit on behalf of the respondents. It is admitted that the respondent no.2 is the society but the Govt. of India, Ministry of Agriculture provides finances to the respondent no.2 for conducting research work. It is also averred that the staff is sanctioned by the respondent no.2. The day to day work is looked after by the respondent no.1.

6. The respondents have disclosed that the Class IV staff is known as supporting staff grade I and is appointed according to the rules. For daily labourer, no qualification or age is preseribed. They are, however, paid daily wages which are determined by the Central or State Govt. It is further contended that the daily paid workers are eligible to be selected in the regular scale of Class IV-supporting staff grade I-through interview as per rules. As

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against the available vacancies, 48 daily wagers were taken in Class-IV.

7. The averment of the respondents is that the duties of daily paid labourers are quite different from the duties of supporting staff grade-I. The difference lies in their responsibility and accountability, and it has direct co-relationship with proficiency of the post. According to the respondents, the casual labourers generally work as seasonal workers during the period of sowing, harvesting and other farming activities. The petition is, therefore, assailed by them.

8. The case is pending disposal since 1985 and since 1987 before the Tribunal. On the last date of hearing i.e. on 14.9.95, the learned counsel for the applicant appeared but none appeared on behalf of the respondents. We, therefore, heard the arguments of the learned counsel for the applicant. From the date of hearing of arguments on 14.9.1995, till this date, no prayer is made on behalf of the respondents that their arguments be also heard. We, therefore, proceed on the averment made in counter-reply and dispose of the matter.

9. The contention of the petitioner that 228 employees as shown in the annexure-1, goes unrebutted. The respondents did not deny their working for the last 22 years. An attempt is made to distinguish the duties of the casual workers on the one hand and the regular Class IV employees on the other. It is an admitted case of the respondents

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that the casual labourers are eligible for regularisation in class IV provided the vacancies are there. The averment made by the respondents in the counter-reply is that the casual workers do the seasonal work such as souring and harvesting. This averment does not deny the contention of the applicant that the employees of annexure-1 are whole time workers; and are working for the last 22 years. It is not necessary for seasonal work that the same casual labour should be available to the employer every time. Similarly, the same casual worker is not supposed to work for 22 years and for whole of the day. Besides, agriculture has beoome an industry. Agriculturists take three crops and thus the process of souring and harvesting continues through out the year. In view of this fact, the engagement of labour is perennial rather being called seasonal one. In this case there is specific averment of the applicant that the casual employees are working like regular employees for the last 22 years. It has not been refuted. On the other hand, the contention of the applicant stands corroborated from annexure-2 which is accompanied with a list of 376 employees. Thus it is established that the employees in annexure-1 are continuously working for more than 22 years as regular employees but they are being paid not the monthly salary, but are being paid daily wages. Being perennial workers and not seasonal workers, they require to be regularised.

10. The matter of regularisation came up for decision before the Hon'ble Supreme Court in the case State of Haryana and Others Vs. Piara Singh and

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Others 1992 S.C.C.(L & S) 825. It was held by their Lordships that where a temporary or adhoc appointment was continued for long, the Court could presume that there was need and warranted for a regular post and accordingly could direct regularisation. The main concern of the Court was to ensure rule of law and fair deal to its employees by the Executive consistent with the requirements of Art.14 and 16. Defining it further, the Court holds the view that the State should not exploit its employees nor should it seek to take advantage of the helplessness and misery of either the unemployed persons or the employees. State being, the model employer, is supposed to give equal pay for equal work, and thereby to fulfil the obligation of directive principle of the Constitution. For this reason, the Court further holds that a person should not be kept in a temporary or ad-hoc status for long. Where a temporary or ad-hoc appointment is continued for long, the Court presumes that there is need and warrant for a regular post and accordingly directs regularisation.

11. While dealing with the work-charged employees and casual labour, their Lordships expressed view in para 51 in the words:

> "So far as the work-charged employees and casual labour are concerned, the effort must be to regularise them as far as possible and as early as possible.subject to their fulfilling the qualifications, if any, prescribed for the post and subject also to availability of work.

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If a casual labourer is continued for a fairly long spell-say two or three years-a presumption may arise that there is regular need for his services. In such a situation, it becomes obligatory for the authority concerned to examine the feasibility of his regularisation. While doing so, the authorities ought to adopt a positive approach coupled with an empathy for the person. As has been repeatedly stressed by this Court, security of tenure is necessary for an employee to give his best to the job. In this behalf, we do commend the orders of the Govt. of Haryana(contained it it-s letter dated April 6, 1990 referred to herein before) both in relation to work charged employees as well as casual labour."

12. We have already discussed the facts of the case. Several hundred employees are working with respondent no.1 for the last more than 20 years. They are working like regular employees but the wages are being paid at the rate of Rs.11.75 per day. We have also observed that the work done by the so called casual labourers is of perennial nature and cannot be called seasonal one. Though the employees are termed as casual/seasonal labourers, but those very employees are available to the respondent no.1 for the last more than 20 years. It suggests that the work is of permanent nature and thus the employees, as is held by their Lordships of Supreme Court in Piara Singh's case(supra), should be regularised.

13. We, therefore, direct that the respondents should initiate the process of regularisation immediately. The employees who are working as casual labourers should be given minimum rate of salary w.e.f.

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the date of this order, of regular employees.

14. The O.A. is disposed of accordingly. No order as to costs.

(D.S. Baweja)
Adm. Member

(Dr. R.K. Saxena)
Judicial Member

/M.M./

Typed and compared.
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