Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS....16th.... DAY OF DECEMBER, 1994

HON. MR. JUSTICE B.C. SAKSENA, V.C

HON. MR. K. MUTHUKUMAR, MEMBER(A)

(1) Original Application No.384 of 1994

1. Suresh Kumar, s/o Ram Lal
r/o S.C. Road, Airport
Gate, Izatnagar, Bareilly.

2. Shri Hemraj, s/o Bulaki Ram,
r/o village Kunwa Tanda,
Bareilly. .... Applicants

Versus

1. Union of India, through
Secretary, Indian Council
of Agricultural Research,
New Delhi.

2. Director, Indian Veterinary
Research Institute(IVRI),
Izat Nagar, Bareilly. .... Respondents

OA 1810/92

ALONG WITH

(2) Original Application No. 383 of 1994

1. Harish Chandra, aged about
27 years, s/o Pooran Lal,
r/o Railway Hospital Colony,
Izatnagar, H. No. 5/133,
Bareilly. .... Applicant

See
Sl. No. 32.

Versus

1. Union of India, through
Secretary Indian Council of
Agricultural Research,
New Delhi.

2. Director, Indian Veterinary
Research Institute(IVRI),
Izatnagar, Bareilly.

..... Respondents

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(3) Original Application No. 697 of 1994

1. Prem Singh
S/o Ayodhya Prasad,
r/o village Ram Nagar Paschimi
Gautia, Post Office Rohelkhand
University, Distt. Bareilly.

2. Suraj Pal
S/o Ram Chandra,
r/o village Ram Nagar
Paschimi Gautia,
Post Office Rohelkhand University,
Dist. Bareilly.

..... Applicants

Versus

1. Union of India
through Secretary
Indian Council of Agricultural
Research, New Delhi.

2. Director,
Indian Veterinary Research Institute,
(IVRI), Izatnagar,
Bareilly.

..... Respondents

(4) Original Application No.506 of 1994

1. Daya Ram, aged about 25 years
son of Sunder Lal, r/o village
Naugawa Ghatampur, post and
Teh. Bareilly, Distt. Bareilly

2. Ram Das, aged about 25 years,
s/o Prasadi Lal, r/o village
Ram Nagar, P.O. University,
Dist. Bareilly

3. Chetram aged about 22 years,
s/o Khyali Ram, village
Kunwa Dauda post, Balipur,
Dist. Bareilly.

4. Mohan Lal, aged about 24 years,
son of Khyali Ram, village Kunwa
Dauda post, Balipur, Dist.
Bareilly.

5. Krishna Kumar, aged about 22 years,
s/o Kundan Lal, r/o Mohalla Ram
Nagar, Post, University Bareilly,
Dist. Bareilly.

.... Applicants

Versus

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...p3

1. Union of India,
through Secretary Indian Council
of Agricultural Research, New
Delhi.

2. Director,
Indian Veterinary Research Institute
(IVRI)
Izatnagar,
Bareilly.

..... Respondents

(5) Original Application No. 528 of 1994

1. Bhawan Prakash,
27 years, s/o Shri Sunder Lal
r/o vill. Naugawan,
Ghatampur, Post Madhauli.

2. Mahendra Pal,
20 years, s/o Nand Ram,
r/o Kalara, post, Maharpura,
Dist. Bareilly.

3. Ram Bharose, 20 years,
S/o Netram, r/o Ram Nagar
Post University,
Dist. Bareilly.

..... Applicants

Versus

1. Union of India,
through Secretary, Ministry
of Agriculture, New Delhi.

2. Director,
Indian Veterinary Research
Institute(IVRI)
Izatnagar,
Bareilly.

..... Respondents

(6) Original Application No.536 of 1994

1. Shyam Singh,
aged about 21 years,
s/o Ram Bharose Lal,
r/o village & Post Sarai Talfi,
Dist. Bareilly.

..... Applicant

Versus

1. Union of India,
through Secretary
Indian Council of Agricultural
Research, New Delhi.

....p4

2. Director,
Indian Veterinary Research Institute
(IVRI)
Izatnagar,
Bareilly.

..... Respondents

(7) Original Application No. 577 of 1994

1. Harveer Singh
Son of Sri Ram Bharosey Lal
resident of village and post
Sarai Talli, District Bareilly.

..... Applicant

Versus

1. Union of India,
through Secretary
Indian Council of Agricultural
Research, New Delhi.

2. Director,
Indian Veterinary Research Institute
(IVRI), Izatnagar,
Bareilly.

..... Respondents

(8) Original Application No. 382 of 1994

1. Daya Ram,
s/o Banshi Lal,
R/o vill. Kunwa Daunda,
P.O. Balipur,
Distt. Bareilly.

2. Dorilal,
s/o Nathu Lal,
r/o vill. Kunwa Daunda
Post. Balipur,
Dist. Bareilly.

..... Applicants

By Advocate Shri Shesh Kumar.

Versus

1. Union of India,
through Secretary,
Indian Council of Agricultural
Research, New Delhi

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2. Director,
Indian Veterinary Research
Institute,(IVRI), Izatnagar,
Bareilly.

.... Respondents

By Advocates Shri Rakesh Tewari
and Shri J.N. Tewari.

(9) Oricinal Application No. 882 of 1994

1. Tej Pal, son of Sri Prem
Raj, resident of Roopapur
village, P.O. Bhadsar, Distt.
Bareilly.

.... Applicant

Versus

1. Union of India, through its
Secretary, Ministry of
Agriculture, New Delhi.

2. Indian Veterinary Research
Institute, Izatnagar, Bareilly
through its General Manager.

3. The Central Aviation Research
Institute, Izatnagar, Bareilly
through its General Manager

.... Respondents

(10) Oricinal Application No. 880 of 1994

1. Mahesh Babu son of Ram Bharosey,
resident of village Manda, Tehsil
and Distt. Bareilly.

2. Gokaran Lal, son of Shri Kishan
Lal, resident of village Kidauna,
Tehsil Amla, District Bareilly.

3. Raja Ram son of Jalim Singh,
resident of Mohalla Bankey
Chhawani, Distt. Bareilly.

4. Jagdish Prasad, son of Sri Faqir Chand
resident of Chawal Mudia, Tehsil
and Post office Bareilly.

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5. Gopal Ram, son of Shri Bhawan Ram, c/o A-869 Rajendra Nagar, P.O. Izatnagar, Distt. Bareilly.

6. Nathoo Lal son of India Lal, resident of village Chawad Tehsil and Post office, Bareilly.

7. Ram Kumar, son of Sri Devi Lal, resident of Mohalla Bagh Ahmad Ali, District Bareilly.

8. Munish Babu son of Sri Bahoranlal resident of village Rajupur Post Rajupur, Distt. Bareilly.

9. Kalloo son of Sri Patras resident of village Kareli, Distt. Bareilly.

10. Dinesh son of Ram Charanlal, resident of Badrai, P.O. Sardar Nagar, Tehsil Amla, Bareilly.

11. Ramesh Chand Pandey, son of Mukat Behari Lal Pandey, resident of village Dhania, P.O. Chathia, Tehsil Bahari, Distt. Bareilly.

.... Applicants

Versus

1. The Union of India, through its Secretary, Ministry of Agriculture, New Delhi.

2. The Indian Veterinary Research Institute, Izatnagar, Bareilly through its General Manager

.... Respondents

(11) Original Application No. 881 of 1994

1. Bhagwan Das, son of Sri Ram Swaroop resident of village Umaisia Saiepur District Bareilly

.... Applicant

Versus

1. Union of India through Secretary, Ministry of Agriculture New Delhi.

...p7

2. Indian Veterinary Research Institute, Izatnagar, Bareilly, through its General Manager.

.... Respondents

(12) Original Application No. 879 of 1994

1. Prakash Chandra Son of Sri Ram Das Yadav, Class IV employee, Indian Veterinary Research Institute, Izatnagar, Bareilly.

2. Sanjeev Kumar, son of Sri Braj Nandan Lal, resident of mohalla Mirehiatola, P.C. Aulab Nagar, District Bareilly.

3. Ganga Prasad, son of Sri Manhalal, resident of village Ram Magan, Pacchhim Caunlia, Post University, Distt. Bareilly.

4. Ram Pal son of Sri Ganga Prasad, Class-IV employee, Indian Veterinary Research Institute, Izatnagar, Bareilly.

5. Prem Shanker Mauriya, son of Sri Ram Prasad resident of village Ram Nagar Pachchimi Gauntia, P.O. University, Distt. Bareilly.

.... Applicants

Versus

1. Union of India through its Secretary, Ministry of Agriculture, New Delhi.

2. The Indian Veterinary Research Institute, Izatnagar, Bareilly through its General Manager

.... Respondents

(13) Original Application No. 495 of 1994

1. Mahesh, son of Dwarika Prasad

2. Suresh Chand, son of Ramesh

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3. Dinesh Chand, son of Bhopati Ram

4. Jaswant Kumar, son of Laturilal

5. Babu Lal, son of Chottey Lal

6. Raju, son of Roshan Lal

7. Mahesh, son of Nibbu Lal

8. Lallu Singh, son of Malley Ram

9. Ramesh Chand, son of Ram Swarup, C/o Indian Veterinary Research Institute, Izatnagar, District Bareilly.

.... Applicants

By Advocates Sri R.C. Singh and Sri Dhananjay Singh

Versus

1. The Union of India, through its Secretary Agriculture Ministry Of India.

2. The Indian Veterinary Research Institute, Izatnagar, Bareilly through its General Manager.

3. Officer-in-charge, Indian Veterinary Research Institute, Izatnager, Bareilly.

.... Respondents

By Advocates Sri Rakesh Tewari and Sri J.N. Tewari.

(14) Original Application No. 1612 of 1993

1. Om Prakash, son of Shri Lalji Prasad, r/o village-Nevada, Imamabad, Post-Cryoladiya, district Bareilly.

.... Applicant

Versus

1. Union of India through Secretary Indian Council of Agricultural Research, Ministry of Agriculture, Government of India, Krishi Bhawan, New Delhi.

....p9

2. Director, Indian Veterinary Research Institute, Izatnagar, Bareilly.

.... Respondents

(15) Original Application No. 1584 of 1993

1. Shri Ramesh Chandra Maurya, s/o Netram, r/o village Choti Vihar, Post- Izatnagar, District Bareilly.

2. Yusuf Khan, s/o Shri Munshi Khan R/o village Gaunlia Deda-peer, Post Haiderpur, District Bareilly.

3. Shri Chatrapal, s/o Netram, R/o village Choti Vihar Post-Dedapeer District Bareilly.

4. Mustar Khan, s/o Mahboob Khan R/o village Kohani, Post Kesarpur, District Bareilly.

.... Applicants

Versus

1. Union of India through Secretary, Indian Council of Agricultural Research, Ministry of Agriculture Government of India, Krishi Bhawan, New Delhi.

3. Director, Indian Veterinary Research Institute Izatnagar, Bareilly.

.... Respondents

(16) Original Application No. 883 of 1994

1. Virendra Kumar Maurya, son of Sri Kesari Lal, resident of village Bihar Khurd, P.O. Izatnagar, District Bareilly

2. Lalta Prasad, son of Sri Durga Prasad, r/o village & P.O. Sanekpur, District Bareilly.

3. Madan Lal, son of Sri Mewa Lal, resident of village Budha, P.O. Bilwa, District Bareilly.

.... Applicants

Versus

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1. Union of India, through the Secretary, Indian Council of Agricultural Research, New Delhi.

2. The Director, Indian Veterinary Research Institute, Izatnagar, Bareilly(U.P.)

.... Respondents

(17) Original Application No. 728 of 1994

1. Krishan Pal, son of Govind Ram working as casual worker in Indian Veterinary Research Institute Izatnagar, Bareilly, r/o Chhoti Bihar Khurd Post Izatnagar, Bareilly.

.... Applicant

Versus

1. Union of India through the Secretary I.C.A.R Krishi Bhawan, New Delhi.

2. Director, Indian Veterinary Research Institute, Izatnagar, Bareilly

.... Respondents

(18) Original Application No. 725 of 1994

1. Khemchand, s/o Sri Netram working as casual labour in I.V.R.I Izatnagar Bareilly, r/o village Chhoti Bihar Post Izatnagar, Bareilly

.... Applicant

Versus

1. Union of India through Secretary, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.

2. Director, Indian Veterinary Research Institute, Izatnagar, Bareilly.

.... Respondents

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(19) Original Application No. 885 of 1994

Mool Chand, s/o Durga Prasad
r/o village Bihar Khurd, P.O.
Izatnagar, District Bareilly,
working as casual labour in
I.V.R.I, Izatnagar.

.... Applicant

Versus

1. Union of India through the
Secretary, Indian Council of
Agricultural Research, New
Delhi.

2. Director
Indian Veterinary Research
Institute, Izatnagar, Bareilly.

.... Respondents

(20) Original Application No. 886 of 1994

1. Raja Ram, s/o Lalji(Jatav SC)
R/o village Newada Imamabad P.O.
Kaladia, district Bareilly.

2. Jagdish Chandra, s/o Lochan Lal
(Jatav SC), r/o village Jaferpur
P.O. Bhajipur, District Bareilly.

3. Angan Lal, s/o Chheda Lal(Jatav SC)
R/o village Milak Alinagar P.O.
Maujipur, district Bareilly.

4. Serwer Khan, s/o Akbar Khan
R/o Tarai Gavtia P.O. Faridpur
District Bareilly.

.... Applicants

By Advocate Sri M.A. Siddiqui

Versus

1. The Union of India through the
Secretary, Indian Council of Agri-
cultural Research, New Delhi.

2. The Director,
Indian Veterinary Research Institute
Izatnagar, Bareilly.

.... Respondents

By Advocates Sri Rakesh Tewari

and Sri J.N. Tewari.

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(21) Original Application No. 717 of 1994

Ram Autar Maurya, s/o Pyare Lal r/o village-Manehara, post office Bhojipur, Distt. Bareilly.

.... Applicant

Versus

1. Union of India through Director General Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.

2. Director, Indian Veterinary Research Institute, Izatnagar, Bareilly.

3. Prabhari Farm Adhikari, Indian Veterinary Research Institute Izatnagar, Bareilly.

.... Respondents

(22) Original Application No. 890 of 1994

1. Hori Lal, s/o Puran Lal r/o Gokulpur, post office Sahoda Tehsil Meerganj, District Bareilly.

.... Applicant

Versus

1. Union of India through Director General, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.

2. Director, Indian Veterinary Research Institute, Izatnagar, District Bareilly.

3. Prabhari Adhikari(Farm), Indian Veterinary Research Institute Izatnagar, Bareilly.

.... Respondent

(23) Original Application No. 707 of 1994

1. Mool Chand, s/o Nathoo Lal r/o Jafarpur, Tehsil Sadar District Bareilly.

.... Applicant

Versus

1. Union of India through Director, General, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.

...p13

2. Director Indian Veterinary Research Institute, Izatnagar, Bareilly.

3. Prabhari Farm Adhikari, Indian Veterinary Research Institute Izatnagar, Bareilly.

.... Respondents

(24) Original Application No. 467 of 1994

1. Chet Ram, s/o Sri Summeri, r/o village Doswal, post Office Sethal, District Bareilly.

2. Hari Shanker s/o Shri Sheo Lal r/o village Umarsiaya, post Umarsiaya District Bareilly.

.... Applicants

Versus

1. Union of India through Director General Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.

2. Director, Indian Veterinary Research Institute, Izatnagar Bareilly.

3. Prabhari Farm Adhikari, Indian Veterinary Research Institute Izatnagar, Bareilly.

.... Respondents

(25) Original Application No.908 of 1994

Ram Bhajan, son of Shri Budh Sen, r/o village Khalilpur, C.B. Ganj, District Bareilly

By Advocate Shri P.K. Kashyap .... Applicant

Versus

1. Union of India through Agriculture Secretary, Ministry of Agriculture, Government of India Krishi Bhawan, New Delhi.

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2. The Director,
Indian Veterinary Research Institute
(I.V.R.I), Izatnagar, Bareilly(U.P.)
243122.

3. Shri K.C. Srivastava
Technical Officer,
Engineering Section,
Indian Veterinary Research
Institute(I.V.R.I) Izatnagar,
Bareilly (U.P.) 243122.

4. Incharge Instrumentation
Section, Indian Veterinary Research
Institute(I.V.R.I), Izatnagar, Bareilly
(U.P.)243122.

.... Respondents

By Advocates Sri Rakesh Tewari

and Sri J.N. Tewari.

(26) Original Application No.595 of 1994

1. Virendra Pal, son of Sri Hukam
r/o village Chhoti Bihar, post
office Izatnagar, Bareilly.

2. Dayal Singh Bisth, son of
Sri Harak Singh, resident of
Shastri Nagar, House No. 20-A
Post Izatnagar, Bareilly.

.... Applicants

Versus

1. Union of India, through Secretary
Indian Council of Research Agriculture
New Delhi.

2. The Director, Indian Veterinary
Research Institution, Izatnagar
Bareilly.

3. The Farm Manager/Line Stock Manager
Indian Veterinary Research Institute
Izatnagar, Bareilly.

.... Respondents

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(27) Original Application No. 92 of 1994

Lala Ram, aged about 22 years
Son of Late Shri Dambar Lal,
r/o village Agrash, Post office
Agrash, District Bareilly.

.... Applicant

Versus

1. Union of India, through
Secretary, Indian Council of
Research Agriculture Research
New Delhi.

2. The Director,
Indian Veterinary Research
Institution, Izatnagar,
U.P. Bareilly.

3. The Farm Manager(Horticulture)
Farm Section, Indian Veterinary
Research Institute, Izatnagar
Bareilly.

.... Respondents

(28) Original Application No. 379 of 1994

1. Puttu Lal son of Megh Nath

2. Uman son of Maghan Lal

3. Omkar son of Chhotey Lal

All residents of village Paharganj,
Post Bihar Kalan, Izatnagar,
Bareilly.

.... Applicants

Versus

1. Union of India, through
Secretary,(Indian Council of
Agricultural Research,
New Delhi.

2. The Indian Veterinary Research
Institute, Izatnagar, Bareilly

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3. The Farm Manager(Farm Section)
Indian Veterinary Research
Institute, Izatnagar, Bareilly.

.... Respondents

(29) Original Application No.545 of 1994

1. Hari Nandan son of Shri Badri Lal, resident of village Gautia Ram Nagar, District Bareilly.

2. Sita Ram, son of Narain Das, r/o village Wakar Nagar, Sundarasi Post Collectorganj, Bareilly.

3. Suraj Pal son of Shri Lakhi resident of village Wakar Nagar Sundarasi, Post Collector Ganj, Bareilly.

4. Jamuna Prasad son of Shri Jwala Prasad, resident of village/Post office Baron, District Bareilly.

5. Rajendra Pal son of Shri Hira Lal resident of village Dharupur Post office Mohanpur Thiria District Bareilly

6. Dhan Pal son of Shri Ram Chandra resident of village Paharganj Post office Bihar Kala, Bareilly.

.... Applicants

Versus

1. Union of India, through Secretary Indian Council of Agriculture Research New Delhi,

2. The Director, Indian Veterinary Research Institution Izatnagar, Bareilly

3. The Farm Manager/Live Stock Manager Indian Veterinary Research Institution, Izatnagar, Bareilly.

.... Respondents

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(30) Original Application No. 119 of 1994

1. Pratap Singh son of Sri Pooran Lal

2. Inderjeet son of Sri Jamuna

3. Pratap Singh son of Shri Ram Prasad.

all applicants are resident of village Ram Nagar West Gautia Post Office University Bareilly District Bareilly.

.... Applicants

Versus

1. Union of India through Secretary, Indian Council of Research Agriculture Research New Delhi.

2. The Director, Indian Veterinary Research Institution, Izatnagar 48, Bareilly.

3. The Farm Manager(Farm Section) Indian Veterinary Research Institute, Izatnagar, 48 Bareilly.

.... Respondents

(31) Original Application No.64 of 1994

Jagan Lal son of Shri Ram Prasad, resident of village Dhanuwa, Post Office Chathiya District Bareilly, at present C/o Daya Ram, village Raipur Chaudhury, Post office Izatnagar District Bareilly, U.P.

.... Applicant

By Advocate Shri I.M. Kushwaha

Versus

1. Union of India through Secretary Indian Council of Research Agriculture Research New Delhi

2. The Director, Indian Veterinary Research Institute, Izatnagar, U.P. Bareilly.

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3. The Farm Manager (Horticulture)
Farm Section, Indian Veterinary
Research Institute, Izatnagar
U.P. Bareilly.

.... Respondents

By Advocates Shri Rakesh Tewari
and Shri J.N. Tewari.

(32) Original Application No. 1810 of 1992

Tata Ram son of Sri Bala Ram
resident of village and Post
Office Tehiya, Bareilly.

.... Applicant

Versus

1. Union of India,
Ministry of Agriculture,
through Secretary, New Delhi

2. The Director,
Indian Veterinary Research
Institute, Izatnagar,
Bareilly.

3. Sri A.K. Singh,
Assistant Administrative Officer,
Indian Veterinary Research
Institute, Izatnagar, Bareilly.

.... Respondents

(33) Original Application No. 1812 of 1992

Vijaipal son of Shri Ram Lal
Care of Shri Harshpal Singh
resident of House No. 341/3,
Avas Vikas Rajendra Nagar,
Bareilly.

....Applicant

Versus

1. Union of India,
Ministry of Agriculture,
through Secretary, New Delhi

2. The Director,
Indian Veterinary Research Insti-
tute, Izatnagar, Bareilly.

3. Sri A.K. Singh
Assistant Administrative
Officer, Indian Veterinary
Research Institute,

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Izatnagar, Bareilly

.... Respondents

(34) Original Application No. 927 of 1994

1. Hari Om Lodhi s/o Shri Tikka Ram, resident of village Wakarnagar Sundarasi, Post Office C.B.Ganj, District Bareilly. .... Applicant

By Advocate Shri K.A. Ansari

Versus

1. Union of India through Secretary Agricultural Ministry, Government of India, Krishi Bhawan, New Delhi.

2. The Director Central Avian Research Institute (IVRI) Campus, Izatnagar, P.O. Izatnagar, District Bareilly.

3. The Administrative Officer Central Avian Research Institute (IVRI) Campus, Izatnager, P.O. Izatnagar, District Bareilly.

4. The Officer-in-charge Engineering and Maintenance Section Central Avian Research Institute IVRI Campus, Izatnagar P.O. Izatnagar District Bareilly.

.... Respondents

By Advocate Shri Rakesh Tewari and Shri J.N. Tewari.

O R D E R (Reserved)

JUSTICE B.C. SAKSENA

This bunch of cases have been filed by the Casual labourers of the Indian Veterinary Research Institute (for short I.V.R.I.), Izat Nagar, Bareilly. The claim of

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the applicant is that they have worked in the I.V.R.I. over a long spell of years, though for intermittent periods and not continuously. They claim that they are entitled to regularisation and also to be paid wages equal to the emoluments which are paid to the regular employee of the I.V.R.I. since they allege that they are discharging similar nature of duties and responsibilities as the regular staff working on identical posts.

2. O.A. No. 384/94 is being treated as the leading case and since all the O.As broadly involve the same questions of facts and law, they are being disposed of by a common judgment. The common judgment will cover all the O.As.

3. We do not propose to indicate the facts of each O.A but propose to deal with the questions of law arising broadly in all the cases.

4. We have heard the learned counsels for the parties.

5. The applicants claim that they have been engaged on daily wages and have been given work from time to time but no appointment letter was issued in support of the working days of each of the applicant. They alleged that certificates have been issued and they were produced at the time of hearing if the Tribunal would require.

6. The applicants based their claim for regularisation on a circular letter incorporating the provisions of 2 Office Memorandums issued by the Ministry of Home Affairs dated 2.12.66 read with Office Memorandum dated 9.8.61, copy of this has been filed as Annexure-1 to the leading O.A. This circular letter interalia,

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provides that casual labourers in Class IV posts borne on the regular Establishment which are required to be filled by direct recruitment will be made subject to certain conditions enumerated therein. The conditions interalia, are that no casual labourer not registered with the Employment Exchange should be appointed to posts borne on the regular establishment, the casual labourers appointed through Employment Exchange and possessing experience of minimum of 2 years service as casual labourers in the office/establishment to which they are so appointed will be eligible for appointment to posts on the regular establishment in that office/establishment without any further reference to the Employment Exchange. It was also provided that the casual labourer who has put in atleast 240 days of service as casual labourer (including broken period of service) during each of the 2 years of service will be entitled to the benefit of clauses (b) and (c) of the said O.M. For the purposes of absorption in regular establishments, casual labourers it was directed should be allowed to deduct from their actual age if period spent by them as casual labourers and if after deducting this period, they are within the maximum age limit they should be considered eligible in respect of maximum age. It was also provided that the broken period of service which may be taken into account for the purposes of age relaxation for appointment in regular establishment should not be more than six months at one stretch of such service.

7. The applicants also alleged that they are discharging similar nature of duties by the regular employee.

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8. In the counter affidavit, the details with regard to number of working days of each of the applicants in the concerned O.As have been shown through a chart. The said chart goes to show that none of the applicants has put in 240 days of continuous service in two consecutive years. The stand of the respondents is that for purposes of regularisation of the casual labourers and which are being implemented are contained in Office Memorandum dated 13.10.83 issued by the Ministry of Home Affairs, Department of Personnel and Administrative Reforms as also a circular dated 29.3.84 issued by the Indian Council of Agricultural Research, copy of the same has been annexed as CA-1 and CA-2 to the counter affidavit in the leading case.

9. The responcents have also annexed copy of circular letter dated 19.9.90 issued by the Indian Council of Agricultural Research. Through the said circular it has been indicated that since all the Institutes under which have large farms, area, casual labourers are required to be employed during season to do work of seasonal nature, being required it was stressed that objective norms with regard to the strength of labour per acre during crop season be developed. It was also provided that employment of contract labour as far as possible for the agricultural farms of the Institutes may also be explored. These directions were given by the Finance division of the Indian Council of Agricultural Research. The respondents in their counter have indicated that the applicants and similarly other casual labourers were engaged from time to time to do casual nature of duties, the casual labourers are thus engaged for specific work in specific period from time to time and as and when the specific work for which they are

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engaged is over their services automatically come to an end. The respondents have also denied that the applicants or other seasonal casual labourers discharge the same nature of work and responsibilities as are discharged by permanent staff. It is alleged that the nature of work and duties of the two categories is different and therefore, the claim for 'Equal pay for Equal work' is unfounded and untenable. It has been indicated that none of the applicants are working against any permanent post nor there are vacancies and the applicants have also not qualified for regularisation in the light of the provisions of the Office Memorandum and circular letter Annexure CA-1 and CA-2.

10. In the rejoinder affidavit virtually the averments made in the O.A have been reiterated. On behalf of the applicants it was urged that since they have worked for [illegible] intermittent period over a number of years, they are entitled to be considered for regularisation. The various Office Memorandums of the Ministry of Home Affairs filed as Annexure 1 to the O.A provides that casual labourers who have put in atleast 240 days of service as casual labourers(including broken period of service)during each of the 2 years of service would be entitled to the benefit of clauses(b) and (c) of the said Office Memorandum. Cl.(b) &(c) provides that casual labourers appointed through Employment Exchange and possessing experience of 2 years service as casual labourers in the office/establishment to which they are so appointed will be eligible for appointment to posts on the regular establishment in that office/establishment without any further reference to the Employment Exchange. In the facts of the present case, none of the applicants qualify for appointment against the regular post in the

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Office/establishments of the respondents.

11. The respondents in their counter affidavit have referred to Annexure CA 1 and CA2. There is slight distinction in the provisions contained in the aforesaid two orders viz the circular letters of earlier date filed as Annexure 1 to the O.A. The difference lies in the fact that by the former circulars 240 days continuous service in 2 consecutive years is provided whereas, though 240 days of service is provided including broken period of service but the 2 years period is to be computed according to the said circular from the date of their registration in the Employment Exchange. The applicants do not qualify for being considered for regularisation under the provisions of Annexure CA1 and CA2 that since none of them have put in 240 days of continuous service in 2 consecutive years.

12. It was next urged on behalf of the applicant that the respondents have manouvered and have not permitted any of the applicants to complete 240 days of continuous service in 2 consecutive years. This alleged action of the respondents is stated to be arbitrary and capricious.

13. A similar contention was considered by a Bench of which I was a Member. By the said decision which was rendered on 15.12.94, 52 O.As grouped together have been decided by a common judgment. The leading O.A was O.A. 1336 of 1993 'Munna Lal and Ors Vs. Union of India & Ors. We had held in the said decision that on the material on record we are in no position to adjudicate the plea of arbitrariness and discrimination. The same situation obtains in these O.As also. The nature of the appointment of the applicants goes to show that it is as seasonal

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casual labourers, their engagement was on seasonal basis to cope up with the extra work load which arises for intermittent period and as soon as the work for the period which they are engaged over, their services come to an end automatically. The respondents have stated that keeping in view the work load and the exigencies they have taken care to ensure that engagement is made and work is provided as far as possible to the casual labourers on the basis of number of days put in by them.

14. At the Bar the learned counsel for the respondents categorically stated before us that the respondents are not engaging any fresh hands as casual labourers and has resolved not to engage any fresh hands till after regularisation of all the casual labourers who have worked with them from the initial period of inception of the Institute till date.

15. In our decision in O.A 1336/93, which was also by casual labourers of the I.V.R.I. and C.A.R.I. We have held that ordinarily in cases of appointments on daily wage basis whether break in service can be said to be artificial or not depends upon the facts and circumstances of each individual case and is required to be decided on the basis of evidence adduced and materials placed by the parties. Such questions of facts are normally not capable of being decided on the basis of affidavit evidence only.

16. The learned counsel for the applicants in the various O.As have cited various decisions which may be noted:

(i) 1988 S.C 517 'U.P. Income Tax Deptt Contingent Paid staff Welfare Association Vs. Union of India and Ors

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(ii) 1993 S.C 188 'Union of India and Ors Vs. Basant Lal and Ors.

(iii) 1991 S.C 1117 The Scheduled Caste and Weaker Section Welfare Association and another Vs. State of Karnataka.

(iv) 1990(2) U.P.L.B.E.C 1174 and also at page 1247.

17. By the first decision 'U.P. Income Tax Department (Supra), a writ petition under Art. 32 of the Constitution was decided. By the said decision the Supreme Court directed the respondents to prepare a scheme on rational basis for absorbing such employees who have been working continuously for more than one year.

18. In the second decision in Union of India and Ors Vs. Basant Lal (Supra), it was held that there was no material to indicate that the respondents therein were employed on project work. It was provided that on completing 120 days they are entitled to get salary as temporary employees. That decision was based on the provisions laid down in Chapter XXIII of the Indian Railways Establishment Manual. No analogous provision has been pointed out to govern the conditions of service of the applicants in the O.As under decision. The said decision, therefore, cannot be used to any advantage by the applicants.

19. The last two decisions were cited to support the submission that the respondents being instrumentalities of the state, their action should be informed by reason and resort to 'hire and fire' policy would be arbitrary. We do not think it necessary to analyse the various decisions cited on behalf of the applicants.

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20. On the question of regularisation as is known, the Hon'ble Supreme Court has in the earliest decisions had taken the view that the casual daily employees are entitled to be regularised after having put in six months of service. In some later decisions the service of one year was considered necessary for being regularised. In some other subsequent decisions instead of directing regularisation the authorities were required to draw up a scheme for regularisation. The Hon'ble Supreme Court in some later decisions took the view, the 3 years service ignoring artificial break for short periods in the circumstances of those cases was held sufficient for regularisation and provided that the regularisation be made in phases in accordance with the length of service.

21. The Hon'ble Supreme Court in some other cases finding that the claim for equal wages at par with the regular employees and for regularisation involved disputed question of fact and needed investigation remitted the matter to some nominated court or Tribunal or expert body to examine the contentions raised in the petition before it as also the stand taken by the respondents on all issues after providing full opportunity to the parties of hearing including leading of evidence oral and documentary required state Tribunal or body to make a report to the Registrar of the Hon'ble Supreme Court within a time frame. After the receipt of such a report the Supreme Court considered the recommendation and passed necessary orders. In this regard, reference may be made to the case of 'Bhagwati Prasad Vs. Delhi State Mineral Development Corporation'.

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22. Some other decisions on the question of regularisation deserve to be noted, since they are the recent and subsequent decisions. In the case of 'Delhi Development Horticultural Employees Union Vs. Delhi Administration Delhi and Ors, reported in A.I.R 1992 S.C-79, a two Judge Bench was placed to make certain relevant observation. It was observed in the said judgment:-

> " this country has so far not found it feasible to incorporate the right to livelihood as a Fundamental right in the Constitution. This is because the country has so far not attained the capacity to guarantee it, and not because it considers it any the less Fundamental to life. Advisedly, therefore, it has been placed in the Chapter of Directive Principles. Art. 41 of which enjoins upon the State to make effective provision for securing the same within the limit of its economic capacity and development. Thus even while giving direction to the State to ensure the right to work the Constitution makers thought it prudent not to do so without qualifying it."

23. The other relevant observation in the said judgment is " for regularisation there must be regular and permanent post or it must be established that although the work is of a regular or

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permanent nature, the device of appointing and keeping the workers on ad hoc or temporary posts has been resorted to, to deny them the legitimate and legible benefit of permanent employee. In the same judgment, the Hon'ble Supreme Court was pleased to note an equally injurious effect of indiscriminate regularisation it has been noted:

> " Many of the agencies have stopped undertaking casual or temporary works though they are urgent and essential for fear that if those who have been employed on such works are required to be continued for 240 or more days have to be absorbed as regular employees although the works are time bound and there is no need of the workmen beyond the completion of the work undertaken. The public interest are thus jeoparadised on both counts. "

24. The other decision which needs to be noted is the decision in the case of State of Haryana and Ors Vs. Piara Singh and Ors, A.I.R 1992 S.C 2130. In the said case in paragraph 23, the Supreme Court made the following observation:-

> " while giving any direction for regularisation of ad hoc, temporary, daily-wagers etc the court must act with due care and caution. It must first ascertain the relevant facts and must be cognizant of the several situations and eventualities that may arise on account of such directions. A practical and pragmatic view

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has to be taken inasmuch as every such direction not only tells upon the public exchequer, but also has the effect of increasing the cadre strength of a particular service, class or category."

25. In the said case it was held that the High court has acted rather hastely in directing wholesome regularisation of all such persons who have put in one year's service and that too unconditional. In paragraph 10 of the said decision, it was observed:-

" ordinarily speaking, the creation and abolition of a post is a prerogative of the executive. It is the executive again that lays down the conditions of service subject ofcourse to a law made by the appropriate legislature. This power to prescribe the conditions of service can be exercised either by making the rules under the proviso to Art. 309 of the Constitution or(in the absence of such rules) by issuing rules/instructions and exercise of its executive powers. The court comes into picture only to ensure observance of Fundamental right, statutory provisions, rules and other instructions if any, governing the conditions of service."

26. Another decision of the Hon'ble Supreme Court which needs to be noted is a decision by a three Judge Bench in the State of Punjab and another Vs. Surendra Kumar and others reported in 1991 iv S.B.L.T(L) 163. The entire judgment of the High court reads thus:-

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" on the facts and circumstances of the case, we are of the opinion that the just and fair order should be that the petitioners who have been appointed part-time basis should be continued until the government makes regular appointments on the recommendations of the Public Service Commission. Meanwhile, the petitioners will get their salary for the period of vocation."

27. A perusal of the said decision shows that it was urged by the learned counsel for the respondents therein that the order of the High court can be sustained on the basis that the Supreme Court has issued directions for absorption of the temporary or ad hoc Govt. servants on permanent basis in several cases. It was argued before the Supreme Court that if this could be done by the Supreme Court without assigning any reason, it should be opened to the High court as well to allow the writ petition in similar terms. The Supreme Court expressed its inability to agree. It thereafter proceeded to point out the distinction between the jurisdiction of the High Court and the distinction between the power conferred on the Supreme court under Article 142. It was held that Art. 142 empowers the Supreme court to make such orders as may be necessary;

"for doing complete justice in any case or matter pending before it." which authority the High court does not enjoy. It was observed that:-

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" the jurisdiction of the High court while dealing with a writ petition, is circumscribed by the limitation discussed and declared by the judicial decisions and it cannot transgress the limits on the basis of whims or subjective sense of justice varying from Judge to Judge."

28. In Sandeep Kumar Vs. State of U.P., reported in 1992 S.C 713, the Supreme Court held:-

" From the facts placed before us, it appears that the scheme under which the petitioners are working is of a very specific nature. There is no permanent need for the work and since it is a project for a particular purpose, it will not be possible to direct that the petitioners may be regularised in service."

29. The Supreme court again reiterated its aforementioned view in 'Karnataka State Private College Stop Gap Lecturers reported in J.T. 1992(1) S.C 373.

30. As noted hereinabove, one of the pleas raised on behalf of the applicants was that the respondents have not permitted the applicants to complete the eligibility laid down in Annexure CA1 and CA2. The Supreme Court in 'Piara Singh's case (Supra) has made a very relevant observation:-

" This is not a case, we must reiterate, where the Govt. has failed to take any step for regularisation of their ad hoc employees working over the years. Every few years they have been issuing orders providing for

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regularisation. In such a case, there is no occasion for the court to issue any directions for regularisation of such employees more particularly when none of the conditions prescribed in the said orders can be said to be either unreasonable, arbitrary or discriminatory. The court cannot obviously help those who cannot get regularised under these orders for their failure to satisfy the condition prescribed therein. Issuing general declaration of indulgence is no part of our jurisdiction. In case of such persons, we can only observe that it is for the respective Govts to consider the feasibility of giving them appropriate relief, particularly in cases where persons have been continuing over a long number of years, and were eligible and qualified on their date of ad hoc appointment and further whose record of service is satisfactory."

31. In the light of the discussion hereinabove, since we do not find that the provisions contained in Annexure CA 1 and CA2 can be said to be either unreasonable, arbitrary or discriminatory, the provisions of the said annexures must be allowed to govern the question of regularisation of the casual labourers of the Institutes in question including the applicants in these O.As.

32. A recent decision cited by the learned counsel for the respondents may also be noted. The said decision is by the Apex court in 'Madhyamik Shiksha Parishad Vs. Anil Kumar, reported in 1994 L.I.C 1197. A perusal of

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the decision shows that the respondents thereto had been engaged in the year 1986 by the appellant for the work of preparing certificates to be issued to the successful candidates at the examination conducted by it. The respondents were being paid lastly at the rate of Rs.20/- for 100 certificates. There was a backlog of certificates to be cleared and the respondents were engaged to clear that backlog on payment of ad-quantum. The backlog having been cleared, the services of the respondents were not continued, the respondents filed a writ petition and the High court was pursuaded the view that the respondents were casual workmen who had completed 240 days of work and for other reasons held that discontinuance of their services was not legal and they were entitled to reinstatement. The Apex court held that the completion of 240 days of work does not under the Industrial Dispute Act import the right to regularisation. It merely imposes certain obligation upon the employer at the time of termination of service. It further held that it is not appropriate to import and apply that anology in an extended or enlarged form. In the said case the Apex court also held that since there was no sanctioned post in existence to which the respondents could be said to have been appointed, the order for their reinstatement could not be upheld. It was also held that the assignment was an ad hoc one which anticipatedly spent itself out and therefore, it was difficult to envisage for them the status of workmen on the anology of the provisions of the Industrial Disputes Act importing the incidents of completion of 240 days work.

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33. Reference to the above decision is relevant and meets the plea taken on behalf of the respondents that on completion of 240 days the applicants are entitled to regularisation. The respondents have very clearly indicated that the applicants were engaged as seasonal casual labourers on completition of their work for which they were engaged, their services automatically came to an end. The respondents have also denied that the applicants can be termed as workmen under the provisions of the Industrial Disputes Act. Since no sanctioned post is in existence, we think that it would not be advisable to direct regularisation of the applicants against regular posts. More so, since admittedly, the applicants on the basis of their number of days of working do not fulfil the eligibility for regularisation lays down in Annexure CA1 and CA2 to the counter affidavit.

34. On a conspectus of the discussion hereinabove, the O.As are devoid of merit. The pleas raised on behalf of the applicants has been held by us to be untenable. The O.As are accordingly dismissed. The parties shall bear their own costs. Such of the applicants whose services came to an end on completion of the work of the project for which they have been engaged but by reason of the interim order they have been allowed to continue will have no right to continue. The interim order was subject to the decision of the O.A and since the O.As are being dismissed, the interim order if any, stands vacated. Copy of this common judgment shall be placed on the file of each of the O.As which have been clubbed together and have been disposed of by this common judgment.

(K. MUTHUKUMAR)
MEMBER(A)

(B.C. SAKSENA)
VICE CHAIRMAN

Dated: Dec:..... 1994

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