

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad this the 25th day of Nov 1997.

O.A. No. 1775/93 & O.A. No. 592/94

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

HON. MR. D.S. BAWEJA, MEMBER(A)

O.A. No. 1775/93

1.Om Prakash son of Dalipa

2.Ram Bodhan son of Janki Prasad

3.Pawan Kumar son of Ram Asrey

4.Ram Deo son of Kalhu

5.Nafees son of Barkat.

6.Vijay son of Mahabir.

7.Sadhu Ram son of Bachai Ram.

All residents of C/o Sri Rajeev Kumar, 270, New Mohampuri, Meerut.

Applicants.

By Advocate Shri S.D. Sharma.

versus

1.Union of India through Dy. Director General, Military Farms, QMG's Branch Army Headquarters, West Block No. III R.K. Puram, New Delhi.

2.Dy. Director Military Farms, Headquarters, Central Command, Lucknow.

3.Officer-I/C Military Dairy Farm, East Cultivation No. 2, Mowana Road, Meerut Cantt.

Respondents

By Advocate Km. Sadhna Srivastava

2. O.A. No. 592/94

Applicants same as in O.A. No. 1775/93 above.

versus

1. Union of India through Dy. Director General, Military Farms QMG's Branch, Army H. Qrs, West Block No. III, R.K. Puram, New Delhi.

2. Dy. Director, Mily Farm & Directote, Frieswal, Project, C/o Military Farm School and Research Centre Meerut Cantt.

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3. Officer-in-Charge, Military Dairy Farm East
Cultivation No. 2, Meerut Cantt.

Respondents.

By Advocate Kr. Sadhna Srivastava.

O R D E R (ORAL)

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

These O.As have been filed by 7 persons who were engaged as Casual Farm Hands in the East Cultivation, Military Dairy Farm, Meerut Cant. The applicants claim setting aside of the verbal order for their termination of service and seek a direction for their reinstatement with back wages and all consequential benefits. The other relief which the applicants have sought is for regularisation on the post of Farm Hands with payment of difference of wages for the past years which they have already worked after completion of 240 days service under the respondents.

2. Detailed Counter Affidavit has been filed on behalf of the respondents and reply to the same by way of Rejoinder has been filed by the applicants.

3. The respondents' case is that the applicants are not eligible for grant of temporary status or regularisation in accordance with the orders contained in Government of India O.M. dated 10.9.93 read in conjunction with Ministry of Defence O.M. dated 14.10.93. Their case is that the applicants were only engaged as casual Farm Hands and they were paid minimum wages prescribed by the Government.

4. The learned counsel for the applicant submitted that the applicants have rendered service as Casual Labourers for large number of years. Their services were dispensed with arbitrarily. As far as this aspect of the matter is concerned, the respondents in their counter affidavit have indicated that the applicants were performing the jobs offered to them on seasonal basis and daily rated. The respondents have further indicated in their counter affidavit that the applicants, out of their sweet will did not report for work from the dates indicated in paragraph 1

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of the O.A. The applicants in their Rejoinder affidavit have taken the plea that since they have worked for a number of years, it is not understandable why they would leave the job. On the basis of pleadings on record it is very difficult to reach any definite conclusion even if that be that the applicants were ready and willing to work, but they have not been allowed to work. No statutory right of the applicant is shown to have been infringed. The applicants were merely seasonal daily rated hands. They have not shown any vested legal right to continue as such, even though the character of the work being purely seasonal in nature, the applicants cannot claim to be continued in service.

5. Coming to the relief for regularisation, we had put it squarely to the learned counsel for the applicant, to indicate the scheme or the provisions under which the applicants are claiming regularisation. The learned counsel drew our attention to Annexure 3 to the Rejoinder Affidavit. The same is a scheme called 'Casual Labourers(Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993. The opening part of the said scheme clearly says that the scheme will come into force with effect from 1.9.93. Paragraph 3 in the said scheme further stipulates that the scheme shall be applicable to casual labourers in employment of Ministries/Departments of Government of India and their Subordinate offices on the date of issue of these orders(emphasis supplied by us).

6. The applicants in paragraph 1 have indicated that they have continued to work between 23.5.93 and 20.7.93. Thus, it is clear that on the date of issue of the said scheme the applicants were not in employment. In our considered opinion, therefore, the same scheme will not apply and govern the applicants.

7. The learned counsel for the applicant submitted that the said scheme was meant to govern those who had put

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in 240 days in the preceding year from the date of enforcement of the scheme. He has not been able to indicate the basis for this assumption. The words in the scheme are very unambiguous and they would govern those casual labourers who were in employment on the date of issue of office memorandum. The date of issue of the said Office Memo is 10.9.93, but the scheme came into force on 1.9.93. On either of the dates the applicants were not in employment. Therefore, the scheme will not cover them. The learned counsel for the applicant next submitted that besides this, the scheme contained in Annexure -3 to the Rejoinder Affidavit, several other schemes for regularisation have been drawn up from time to time and have been revised in the light of the Supreme Court decision and the decision of the Principal Bench of the Tribunal. Be that as it may. The said decisions only directed the authorities to draw up a scheme. The said decisions do not provide for automatic regularisation and conferment of temporary status de-hors any scheme that may be prepared. Since, in our opinion, the applicants are not governed by the Office Memorandum and the scheme dated 10.9.93, their claim for regularisation is totally misconceived.

8. The respondents, in their counter affidavit have further indicated that a clarification was also issued by the Ministry of Defence and it clearly provided that scheme for regularisation of casual labourers or seasonal labourers would be applicable to those who were recruited through the Employment Exchange. The applicants, admittedly, were not recruited through the Employment Exchange.

9. In view of the discussions hereinabove, there is no merit in the above O.As. Accordingly they are dismissed.

Abhyankar
MEMBER (A)

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VICE CHAIRMAN

Allahabad; Dated: 25-11-97

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