

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 284 of 1999.

ALLAHABAD, This the 4th day of June 2003

HON. MR. A.K. BHATNAGAR, MEMBER (J)

1. Lalji Yadav Son of Ram Singh, resident of 116/1 82-A Chowphataka Chak Niratul, Allahabad.
2. Santosh Kumar son of Shri Shanker Lal, resident of 50/34, Bholi Kapura, Sulem Sarai, Allahabad.

----- Applicants.

(By Advocate : Shri K.P. Singh)

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 Quarters, Q.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 Advocate :- Shri R. Sharma)

Ans

By Hon'ble Mr. A.K.Bhatnagar, Member(J)

By this O.A. filed under section 19 of Administrative Tribunal Act, 1985, the applicant ~~has~~ sought a direction for quashing the verbal termination order passed by the officer Incharge, Military Farm, Allahabad. ^{It} is further prayed to direct the respondents to regularise the services of the applicant with a further direction to respondents to pay the salary for the month of Feb., 1999.

2. The brief facts giving ^{rise} to this application ~~as~~ ^{are that} ~~as~~ applicant no. 1 was initially appointed as casual labour in the month of February, 1990. in respondents establishment and he worked till 13.3.99. Applicant no. 2 was initially appointed as casual labour in Military Farm Allahabad in September, 1991 wherein he worked till 13.3.99. It is claimed that in November, 1992 the name of the applicants were sponsored by the Employment Exchange, Allahabad in compliance to the requisition made by the Officer Incharge, Military Farm, Allahabad for sponsoring the name of casual labourers for working in different fields of Military Farm. The applicant after due selection and due verification by the local police, were paid salary on monthly basis w.e.f. 1993. It is also claimed that the applicants were given temporary status w.e.f. June, 96 and were given pay and allowances as per rules. It is further claimed that in the year, 1997 both the applicants were given two equal instalments of Rs. 5,000 each for arrears of pay in compliance to the declaration made by the 5th Pay Commission. It is claimed that the applicants after completion of 3-years of their services, submitted their application to the Officer Incharge, Military Farm for their regularisation but no cognizance was taken

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by respondent no. 4 i.e. the Officer Incharge, Military Farm, Allahabad. The applicants have sent their representation to the department for their regularisation which are Annexure IV A and IV B, but, the respondents did not pay any heed to their representations. It is also claimed that under the similar circumstances several persons namely Sri Suresh Kumar, Sri Kamta Prasad and Sri Vijay Kumar were regularised under the pick and choose policy ignoring the claims of the applicants. It is further claimed that in December, 1998 the applicants approached the Officer Incharge for regularisation of their services along with reminder letter dated 02.12.98 which are Annexure V-A and V-B to this Original Application on which the respondent no;4 became annoyed and threatened the applicants to terminate their services. The applicants were not paid the salary for Feb., 99 for which they represented on 03.03.99 (Annexure VI & VII). Due to annoyance the respondent no. 4 directed the respective sections to terminate the services of the applicants. When the applicants reported to their respective section on 13.3.99, they were told by the Section Incharge that their services have been terminated. It is also alleged that on the one hand the Officer Incharge terminated the services of the applicants without giving any reasons or show cause notice and on the other hand the respondents are hiring the labourers from open market which is not permissible under the law. Aggrieved by this applicants filed this O.A.

3. I have heard learned counsel for the parties and perused the records.

4. Learned counsel for the applicant submitted that services of the applicants should have been regularised as per policy framed by the Government of India, Ministry of Personnel & Training dt. 10th September, 93. It is further submitted that the services of the applicants were

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terminated without assigning any reason and without issuing any show cause notice to the applicants and their services should have been regularised as they have worked for more than 3 years. The learned counsel for the applicants has placed reliance on the following judgments:

- (a) O.A. 948 of 1999, dt. 28.11.00
Chandan Singh Vs. Union of India.
- (b) 2002(2) ATJ 53, Jagnaresh & Anr. Vs. U.O.I. and Others.
- (c) 2002 (2) ATJ 644, Nar Singh Pal Vs. U.O.I. and Others.

5. The learned counsel for the respondents contested the case by filing the C.A. The learned counsel for the respondents contended that the applicants were engaged as Casual labour on job basis for specific period in Military Farm whenever there was work or job available so there was no question of a verbal termination. As they were engaged as casual labours on work basis and when there was no work, ~~so~~ they were disengaged. The applicants had worked till August, 1998 and were not working since ~~then~~ and ^{their} wages till the month of August, 1998 have already been paid. So the question of salary for the month of February, 1999 does not arise as they were disengaged in August, 1998. It is also contended by the respondent's counsel that the Military Farm is quasi ^{commercial} ~~commercial~~ organisation in the Ministry of Defence and the labourers are engaged on seasonal basis on as and when required basis. It is also contended that after 5th Pay Commission report, Prem Sagar Committee report and non fighting force reports, there are no casual labourers vacancy in Military Farm. ^{Moreover} ~~Moreover~~ regular staff have also been declared surplus by Army Headquarters, New Delhi. It is further contended that as there is no work available so 43 permanent Group 'D' persons have become surplus and have been adjusted in other departments and there is

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requirement for any fresh labour to be engaged on casual basis. He has vehemently refuted the verbal termination of the applicants or any appointment made by them from open market. Learned counsel for the respondents relying on the judgment dated 15.5.01 in O.A. No. 1266/97 Om Prakash & Another Vs. U.O.I. & Ors. has argued that no establishment can be forced to engage or employ the persons over and above ~~and~~ ⁱⁿ their sanctioned strength. In view of the submission made by the learned counsel for the parties I am of the view that the applicants were certainly not regularly appointed casual labourers but on the other hand they ~~have~~ ^{have} worked in the respondents establishment for a sufficiently long time entitling them a preference over the new entrants and freshly engaged persons, ~~but~~ ^{In} the case of the respondents can ~~also~~ not be overlooked, as they have reduced the strength of Casual labourers due to reorganisation of the Military Farm.

6. In view of the aforesaid and in respectful agreement with the judgment cited I am of the view that no establishment can be forced to engage or employ the person, over and above the requirement and the sanctioned strength and, therefore, no direction is legally possible as sought by the applicants in the present O.A. but it is provided that whenever the vacancy is available or occasion arises and the casual labourers are engaged, due priority be given to the applicants keeping in view the working days of the applicants in the respondents establishment. With the above direction the O.A. is decided accordingly.

7. There shall be no order as to costs.

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Member J

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