

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 14 day of July 2003.

QUORUM: HON. MR. D. R. TIWARI, A.M.

O. A. No.745 of 1999

Guru Charan Prajapati, aged about 29 years S/O Shri Ram Adhar
Prajapati R/O Village & Post Bharkhare, District Sultanpur.

..... Applicant.

Counsel for applicant : Sri O.P. Yadav.

Versus

1. Union of India through the Secretary, Indian Council of
Agricultural Research, Krishi Bhawan, New Delhi.
2. Project Director, Cropping System Research, Pallavpuram
Modipuram, Meerut.
3. Administrative Officer, Office of the Project Directorate
for Cropping System Research, Pallavpuram, Modipuram,
Meerut..... Respondents.

Counsel for respondents : Sri B.B. Sirohi.

ORDER

BY HON. MR. D.R. TIWARI, A.M.

By this O.A. filed under section 19 of A.T. Act, 1985, applicant has sought regularisation on the basis of Clause 11(d)(e) and (f) of the instructions quoted in para 4 (xiii) and to regularise the service and pay and allowances.

2. The case of the applicant is that he was initially engaged as daily rated casual labour and posted as Watchman between 21.4.89 and 6.8.1990. The respondent No.2 requisitioned from Employment Exchange, Meerut the list of candidates for the post of Labours/Beldars/Watchmen and the list was supplied to respondents by the Employment Officer on 30.10.90/29.11.90. A Selection Committee for screening & selection was constituted which selected 49 candidates for Fam Labour/Watchman including the applicant who is at Sl.No.33 of the list. The applicant was engaged w.e.f. 1.12.90. The

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Respondent No.2 informed the Employment Officer through a letter dated 4.12.90 that 49 candidates have been selected for Farm labour/Watchman for engagement in Cropping System Research at Modipuram, Meerut. The applicant was employed on 1.12.90 and worked upto 1992. It is stated that the respondents are maintaining seniority list of Watchman/Casual labour/Beldars separately and the list is notified and the Farm Supdt. Cropping System Research submitted the list to Respondent No.2 vide his letter dated 26.9.92 which includes the name of the applicant (Annexure A-4 to Com.No.1).

3. I have heard counsel for the parties, considered their submissions and perused the records.

4. The applicant has relied on the instructions of the Ministry of Home Affairs O.M. No.4/9/61-Estt(D) dt. 9.8.61 and 15.9.61 which stipulates guidelines for regularisation of a casual labour in class IV. The stipulations of these O.Ms are to the effect that the Casual Labour, who has put in at least 240 days ⁱⁿ service as such casual labour is entitled to the appointment to the post of regular establishment. It further provides that broken period of service was to be taken into account for calculation of 240 days. He claims for absorption on regular post on account of eligibility. He further claims that Respondent No.2 granted temporary status to 27 employees similarly situated, who were earlier selected by the Selection Committee along with the applicant. He, thereafter, represented on 12.8.92 which is still pending for consideration.

4. The learned counsel for applicant claims that the applicant was entitled to conferment of temporary status on the basis of letter written by Incharge (Administration) to the Desk Officer, ICAR dated 12.10.98. He points out that para 2 of the letter is relevant where it has been mentioned that temporary status was granted to all labourers who had

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put in 240 days service during any of the 12 consecutive calendar months till first of September 1993. The learned counsel further contends that it was ^{on} the basis of this policy that the temporary status was conferred on 27 casual labourers.

5. The learned counsel for respondents contested the claim made by applicant's counsel. He states that letter dated 12.10.98 has nothing to do with conferment of temporary status to casual labourers. He further clarified that the temporary status is granted on the basis of a scheme which was formulated by the Department of Personnel & Training, Government of India. The scheme is known as 'Casual labour (Grant of Temporary Status and Regularisation) Scheme, 1993 which came into effect from 1.9.1993. The scheme was for grant of 'temporary' status and regularisation of services of casual labourer working in its various departments except the departments of Railways and telecommunications. The Hon'ble Supreme Court has held the scheme to be one time programme applicable to casual labourers who were in employment on the date of commencement of the scheme and had also rendered continuous service for the prescribed period. 2002 S.C. Cases (L&S) 577.

6. The moot point for consideration is whether the claim of applicant is based on the letter dated 12.10.98 or on the instructions contained in the O.Ms of the Ministry of Home Affairs dated 9.8.61 and 16.9.61. Perusal of the O.Ms. of Ministry of Home Affairs is of no assistance to the applicant as they stipulate guidelines for regularisation of casual labourers. The grant of temporary status is condition precedent to regularisation.

7. Now, the claim of applicant has to be considered with reference to the letter dated 12.10.98 from I/C (Admn.) to Sri Mangotra, D.O. of I.C.A.R. I find that the letter clearly mentions the employment in September 1993. The scheme

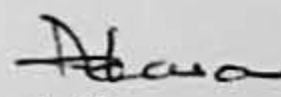
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of the Department of Personnel, P.G. Bensions have been adopted by the I.C.A.R. and is applicable to its unit at Modipuram, Meerut. The scheme, as mentioned in para ⁴~~5~~, requires that the casual labourers should be in employment on the crucial and relevant date when it came into force i.e. 1.9.1993 and should have served for 240 days.

8. The applicant was not in the employment of the respondents in September 1993. Even the applicant admitted in his O.A. that he worked upto 1992. Even this is contested by the respondents and the applicant's working chart since 1989 to 31.12.90 has been filed as Annexure CA-1. The applicant does not disprove this chart by any documentary proof.

9. In view of the above discussions, it is clear that the applicant was not in employment in the Cropping System Research at Modipuram at Meerut on 1.9.1993 and is not eligible for conferment of temporary status in accordance with the scheme of '93 mentioned in para ⁴~~5~~. The O.A. fails being devoid of merit and is dismissed.

No order as to costs.


A.M.

Asthana/