

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 4th day of February, 2004.

QUORUM : HON. MR. JUSTICE S.R. SINGH, V.C.

O.A. No. 1328 of 2002

Chotey Lal S/O Babu Lal Yadav resident of Military Dairy
Farm, Allahabad.....

.....Applicant.

Counsel for applicant : Sri V.P. Shukla,

Versus

1. Union of India through Secretary to Government of India,
Ministry of Defence, New Delhi.
2. Deputy Director General, Military Farms, Army Headquarters
R.K. Puram, New Delhi.
3. Director, Military Farms, Central Command, Lucknow.
4. Officer Incharge, Military Farm, Allahabad.

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.....Respondents.

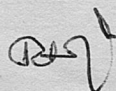
Counsel for respondents : Sri Rajiv Sharma.

O R D E R (ORAL)

B-Y HON. MR. JUSTICE S.R. SINGH, V.C.

Heard Sri V.P. Shukla, learned counsel for applicant,
Sri Rajiv Sharma, learned counsel appearing for respondents
and also perused the pleadings.

2. The applicant, it appears, was engaged as a casual labour in the Military Farm, Allahabad in the year 1990 and worked in capacity of casual labour up to 31.8.1998 whereafter his services, as casual labour, were orally terminated and he was engaged on contract basis. The instant O.A. has been instituted for issuance of an order quashing the oral termination of applicant's service as a casual labour since June 2002 and also for a direction to the respondents to treat the applicant as casual labour and not to give effect to the policy of change in condition of service. It would be clear from Annexure-1 which contains the policy in respect of ~~policy for~~ casual labourers that with a view to streamline the employment of labourers, ^{of 2} all categories following action



will be taken :-

- (a) While PE of all scaled categories has been approved, the PE of cultivation section where a certain no. of casual labourers are regularly employed for one job or another is yet to be fixed. This would reduce the no. of casual labourers to be retrenched and also avoid monthly sanctions except on job basis.
- (b) DMFs will propose the desired PE of cultivation section to regularise services of casual labourers strictly as per seniority based on the vacancies thus worked out.
- (c) Seniority of casual labourers will be worked out by totalling up the no. of days an individual has worked monthwise and yearwise. Individual with highest no. of days will be considered seniormost irrespective of the fact whether sponsored through employment exchange or whether attendance is marked in R-17 or wages book.
- (d) The seniority list would be displayed on notice board so that any representations on attendance are sorted out by reverification of documents. In doing so individuals or union reps will be allowed to satisfy themselves by associating them in reverification.
- (e) Individual not sponsored through Employment Exchange will continue to be paid 1/30 wages till the exemption is obtained from MOD. No one will lose his seniority to become regular on this account.

3. The applicant was concededly not borne on permanent establishment (NBOPE). In paragraph 5 of the circular dated 23.6.98 (Annexure A-1), it is provided that all vacancies of regular nature, as per revised establishment were to be filled by regularising services of casual labourers by 25.7.98 and disposal of surplus casual labourers was to be sought so that there were no employment of casual labourers against regular vacancy as prescribed in AG's Branch letter mentioned in para 1(a) from 15.8.1998. Even according to his own showing, the applicant worked as casual labour till August 1998 and thereafter he accepted employment under the contract. In the circumstances, therefore, it is not now open to him to claim any right on the basis of services rendered by him as casual

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labour till August 1998. His services were done away with under policy decision contained in circular dated 23.6.98 and if the applicant had any grievance he ought to have approached the Tribunal within reasonable time. The O.A. has been instituted on 29.10.02 after a lapse of more than four years. After the applicant was declared surplus, his employment under the contract does not confer a legally enforceable right against the respondents.

4. Sri V.P. Shukla, learned counsel for applicant has, however, placed reliance on a decision by the Tribunal in O.A. No.948/99 Chandan Singh & others Vs. Union of India & others decided on 28.11.2000 wherein under the similar circumstances, the oral order of termination was set aside. The respondents therein were directed to take the applicants in job. In my opinion, the applicant cannot get any benefit of the said order, since he did not approach the Tribunal within reasonable time of termination as casual labour in August, 1998. This Tribunal in O.A. Nos.1046, 1047 and 1048 of 2000 has dismissed the claim of the applicants therein on the ground that the casual labourers have no right to the post. However, Sri Rajiv Sharma has very clearly stated that as and when the vacancies arise³, the applicant will be considered for appointment taking into consideration his past services in accordance with the scheme^{if any, it} formulated by the respondents.

5. On the basis of above discussion, I find no merit in the case. The O.A. is accordingly dismissed with no order as to costs.


V.C.

Asthana/