

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 589 of 2002

Friday, this the 31st day of January, 2003

Hon'ble Mrs. Meera Chhibber, J.M.

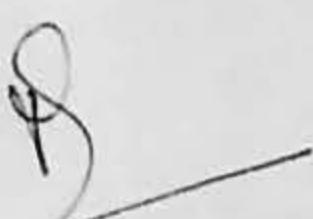
1. Prakash S/o Har Chand,
R/o Village Macchari, P.O. Daurala,
District Meerut.
2. Sohan Pal S/o Nain Singh
R/o Village Machari P.O. Daurala,
District Meerut.
3. Sat Pal S/o Juma
R/o Village Machari, P.O. Daurala,
District Meerut.
4. Bale S/o Har Chand,
R/o Village Machari, P.O. Daurala,
District Meerut.
5. Krishna W/o Bale,
R/o Village Machari, P.O. Daurala,
District Meerut.
6. Deva Nand S/o Prakash,
R/o Village Machari, P.O. Daurala,
District Meerut.
7. Rakesh S/o Mauji Ram,
R/o Village Machari, P.O. Daurala
District Meerut.
8. Bal Singh, S/o Mangte,
R/o Village Surani, P.O. Daurala
District Meerut.
9. Yashpal S/o Sauraj,
R/o CPRS, Modipuram,
District Meerut. Applicants.

(By Advocate : Sri V.K. Goel)

Versus

1. Union of India through Secretary
Agricultural Krishi Bhawan, New Delhi.
2. Indian Council of Agricultural Research,
Krishi Bhawan through its Director,
Library Avenue, New Delhi.

Contd....2.



3. Central Potato Research Institute, Simla Himanchal Pradesh through its Director.
4. Central Potato Research Station, Modipuram Meerut through its Scientist Incharge.

.... Respondents.

(By Advocate : Sri B.B. Sirohi)

ORDER (ORAL)

By Hon'ble Mrs. Meera Chhibber, J.M. :

This O.A. has been filed by as many as 9 applicants who have all claimed for a direction to the respondents to grant temporary status to the applicants as provided under Casual Worker (Grant of Temporary Status and Regularisation) scheme 1993 as adopted by ICAR vide latter dated 23.11.1994 and all other benefits flowing there from. They have also sought a direction to the respondents to stop their malafidly and arbitrary action of engaging one set of casual labour for one set of period and then replace them by another set of casual labour, so that they may not complete 240 days in that year. They have, however, sought a direction to the respondents to make assessment of the requirement and create additional posts considering the fact that the applicants have been engaged around the year for last more than 10 to 12 years, or in the alternative to direct the respondents to frame a suitable scheme to regularise the services of the applicants who have been working from 8 to 12 years already.

2. It is submitted by the applicants that all the applicants were engaged by the respondents either at Pabli or Machari units respectively under the Central Potato Research Institute working at different units under the ICAR. They have given a detailed chart at Annexure A-1 to show the initial engagement of each applicant alongwith the number of working days completed in



each year and the period shown therein. As far as the applicants are concerned, applicant no.1 had been initially engaged in the year 1994, applicant no.2 in 1992, applicant no.3 in 1993, applicant no.4 and 5 in 1991, applicant no.6,7 and 8 in 1993 and applicant no.9 in the year 1989 and they ~~are~~ ^{have} all been working in the Central Potato Research Institute, Modipuram, Meerut. They have submitted that since they have all completed 240 days in a year, they are entitled to get the benefits as per scheme dated 01.09.1993 which has been adopted by the ICAR vide their letter dated 23.11.1994 (Page 32). It is also the grievance of the applicants that the respondents keep on changing the casual labour, so that they are unable to complete 240 days in a year but this fact, according to them, is bad in law as laid down in Piara Singh's case. In the alternate they have submitted that in case they are not entitled to the grant of benefits under the scheme dated 01.09.1993, at least, a direction be given to the respondents now, that they may assess the work and frame a scheme to regularise these casual labourers who have been working since last more than 10 to 12 years. In support of their contentions they have relied on 1998 (8) SCC 473 in Raj Narain Prasad and others Versus State of U.P. & Others and JT 2000 (Suppl.1) SC 267.

3. Respondents have opposed the O.A. as they have submitted that they need extra hands only at the time of sowing and harvesting Potato which is Seasonal in nature and it is only during this period that they require casual labour otherwise they have their own staff in the Research Institute. They have further submitted that after the scheme dated 01.09.1993 has been adopted by the ICAR, they have already given temporary status to ~~such~~ of the persons who fulfilled the conditions as laid down in the scheme but none of the applicants are entitled to the relief under the said scheme as either they had not been engaged as on 01.09.1993 or they had not completed 240 days in

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a year as on 01.09.1993. They have admitted that applicant no.1 to 8 are engaged in Machari unit but have stated that as far as Shri Yespal applicant no.9 is concerned he is not working with them at all. According to them they worked only for two years i.e., during 1990 and 1991. As far as the applicant no.4 and 5 are concerned it is denied that they were engaged in the year 1991 and 1992. As according to the respondents both of them started working with them from 1993 onwards. As far as applicant no.6 and 7 are concerned, it is submitted that they did not work during the year 1993 and started working only in 1994 i.e., after the notification of the scheme dated 01.09.1993. Similarly applicant no.1 also started working during 1994 only. Therefore, none of these applicants are entitled to be given temporary status. They have admitted that applicant no.2 and 3 have been working with effect from 1992 and 1993 but as per their own showing both of them did not complete 240 days either in the year 1992 or 1993. As far as applicant no.4 and 5 are concerned, respondent have submitted that they worked only 68 days and $70\frac{1}{2}$ days respectively during the year 1993. They have thus, submitted that none of the applicants is entitled to get the benefit under the scheme dated 01.09.1993. They have further submitted that respondents have not received any representation from the applicants as mentioned in the O.A. and if they had any grievance, at least they ought to have represented the matter to the authorities, before filing the present O.A. and since they have not exhausting the remedy of doing so, on this very ground itself this O.A. is liable to be dismissed.

4. I have heard both the counsel and perused the pleadings as well.

5. As far as the grant of temporary status is concerned the law is well settled by now by Hon'ble Supreme Court in the

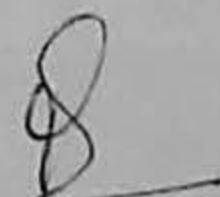


case of Mohan Pal & Others Versus U.O.I. & Others reported in 2002 (1) SC SLJ 464 wherein Hon'ble Supreme Court has clearly held that the scheme dated 01.09.1993 is not an on going scheme but is one time measure and benefits of same can be given to those only who were in employment as on the date when the scheme came into existence and had completed 240 days in a year. Therefore, the question whether the scheme is an on going scheme or a one time measure is no longer res-integra. If the applicants ~~are~~ ^{are} seen in the background of this judgement none, of the applicants would be entitled to grant of temporary status as they did not fulfil the conditions laid down in para 4 of the scheme.

6. Coming to the next contention of the applicants, it is seen that in para 4.8 applicants have stated categorically that the Modus operandi ~~is~~ at Modipuram, Pabli and Machari centres adopted by the respondents is that one set of casual labour were engaged then they are put off and in their place a new set of casual labour are engaged, so that none of them may complete 240 days. In order to deprive them of the benefits which may accrue to them by completing 240 days in a year. It is seen that the respondents in their reply to para 4.8 have not denied this practice categorically as the denial is vague and not specific, they have simply said on the point that since applicants have not completed 240 days or were working as on the date of the commencement of the scheme ~~dated~~ 01.09.1993 they are not entitled for grant of temporary status. Even though in another paragraph the respondents have stated that they are engaging casual labour only for seasonal work for sowing and harvesting potato. It is not disputed by the respondents that applicants are still working, if that be so, it will only be in the interest of justice to direct the respondents not to displace the present set of applicants by new faces or replace them by a new set of daily wage casual labours, ^{if} of course there is some mis-conduct committed by any of the casual labour, In that case

respondents will be at liberty to take appropriate action against the said casual labour. The law on this point is already settled as back as in the case of Piara Singh reported in 1992 (3) SLJ 34. Thus, it is made clear that in case the respondents need to engage casual labour on daily wage, they shall not replace the applicants by appointing another set of casual labours. As far as the third contention of the applicants is concerned the law is well settled that Tribunal cannot give any direction to the respondents to create posts, nor any direction can be given to respondents to regularise the services of casual labourers in the absence of any vacancies, as regularisation is based on the availability of vacancies. However, if the respondents need the services of casual labourers in every season year after year, I think there would be no harm, if a direction is given to the respondents to frame some kind of a scheme to ensure that preference is given to those casual labours who are still working with them or who have already worked with the respondents. So that there is less chance of arbitrariness being alleged against them. I am sure, respondents would consider this aspect of the matter and pass appropriate orders in view of the observations made by Hon'ble Supreme Court in the case of Raj Narain Prasad Versus State of U.P. & Others. However, this direction is given so that similar type of guidelines are framed by the respondents to give preference to those casual labours who have already been working with them to their entire satisfaction.

7. With the above observations, the D.A. is disposed of with no order as to costs.



Member-J