

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

Original Application No. 524 of 2003

Allahabad This The 27th Day of April 2009

HON'BLE MR. JUSTICE A. K. YOG, MEMBER-J

Chaturbhuj aged about 49 years,
Son of Shri Nathoo,
Resident of Village Kot Behta,
District-Jhansi.

..... Applicant

By Advocate : Sri Amit Kumar

Versus

1. Union of India through Secretary,
Ministry of Agriculture,
Govt. of India,
New Delhi.
2. Director General,
Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi.
3. Director, Indian Grassland,
Fodder and Agricultural Forestry research Institute,
Gwalior Road, Jhansi.

..... Respondents

By Advocate : Sri B.B. Sirohi.

O R D E R

1. Heard learned counsel for the parties. Perused the pleadings and the documents on record.
2. According to the applicant he was engaged in Class IV Group 'D' category as Daily Wager. According to him he is entitled for regularization under scheme/Rules of the department. He has earlier filed OA No.203/01 but the same

was withdrawn with liberty to exhaust departmental enquiry.

Applicant submitted comprehensive representation on 26.04.2001. Said representation was rejected by means of order dated 11.1.2003 and in reply to some query the respondent issued again those factum of rejection by means of order dated 15.1.2003. Said letter dated 15.1.2003 is considered to be the impugned order, hence sought to be challenge. Copy filed as Annexure A-1 to the OA.

3. Perusal of aforesaid alleged impugned order dated 15.1.2003 shows that actual decision rejecting representation of the applicant is dated 11.1.2003. Para 4.14 and 4.15 of OA read:-

"4.14 That the above representation, however, has been rejected in a cryptic and mechanical manner without any application of mind and merely a printed form with certain entries has been issued.

4.15 That there is a reference of some decision dated 11.1.2003. This is a mis-statement as no such letter dated 11.1.2001 has been received by the petitioner."

Afore quoted paras of the OA have been replied by the respondents vide para 11 of the counter reply which reads:-

"That in reply to the contents of paragraphs 4.15 & 4.16 of the OA it may be stated that the contents contained therein are misconceived and wrong as stated. It is stated that the letter dated 11.1.2001 is the reply forwarded to the Advocate Sri M.P. Gupta, who issued the notice on behalf of the applicant on 21.12.2001 and the said impugned letter dated 15.1.2003 is not an order. It is a letter forwarding the representation of the applicant to the ICAR for decision, information of which is given to the applicant. The post of Dark Room Attendant was circulated among the casual labourers working with temporary status at the Institute. The applicant also faced the interview but could not succeed by the committee constituted for this purpose."

W/

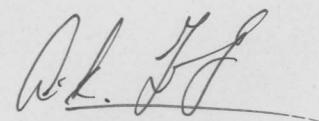
4. The facts stated in para 11 of the counter reply have been replied by the applicant vide para 16 of the rejoinder affidavit which reads:-

"16. That the contents of para 11 of the CA are not admitted."

5. Interestingly in para 16 of the affidavit, the applicant has not categorically stated that statement of facts (contained in para 11 of the CA) with reference to M.P. Gupta Advocate are incorrect. Learned counsel for the applicant placed reliance on the case of U.P. State Electricity Board Vs. Pooran Chandra Pandey & Others, reported in 2008(1) ALJ 75. This case is clearly distinguishable on facts of the case.

6. Order dated 11.01.2003 not being challenged in this OA, the Applicant cannot seek relief claimed in the OA. OA is accordingly dismissed. It is made clear that dismissal of the OA will not come in the way of the respondents for considering 'regularization' of the Applicant-as per Rule/Scheme of the Department, if any provided he is eligible under relevant Rules/Scheme of the department.

7. OA dismissed subject to above observations. No Costs.



Member-J

/ns/