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ORIGINAL APPLICATION NOS.1258 & 1319/2003

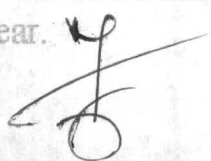
ORDER DATED 24.03.2006

Heard the learned counsel of both the sides and perused the materials placed on record.

2. Shorn of unnecessary details, it would suffice to note that both the Applicants have been engaged as Skilled Helper purely on temporary and contractual basis having been selected through a process of selection under the Respondent-organisation, i.e., Central Rice Research Institute (for short CRRI) at Cuttack. It is the case of the Applicants that although they have made several representations to the Respondents for conferment of temporary status on them and for their consequential regularization as Skilled Helper, the same have not yielded any fruitful result and in the said this Original Application under Section 19 of the A.T.Act, 1985 has been filed by them seeking the following relief:

“...to absorb the applicants in Group-D posts taking into consideration their age, experience and proficiency in the trade keeping in view the provisions as contemplated in the scheme adopted by ICAR under Annexre-A/11 and to extend the service and financial benefits as entitled to within a stipulated period;

Pending disposal of the above application or regulation of services of the applicants, whichever is latter, the financial and service benefit, which was not been extended to them in view of the above scheme after acquiring the temporary status, be paid in arrear.



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3. It has been averred in the Original Application that the Applicant No.1 had completed 240 days in the calendar year, 1994, 105 days in the year 1995, 237 days in 1996, 242 days in 1997, 80 days without break in the year 1998, 80 days in the year 1999, 130 days in the year 2000, 195 days in the year 2001, 190 days in the year 2002 and finally 40 days in the year 2003. Similarly, Applicant No.2 had completed 237 days in the year 1996, 240 days in the year 1997, 80 days in the year 1998, 80 days in the year 1999, 130 days in the year 2000, 195 days in the year 2001, 190 days in the year 2002 and 40 days in the year 2003. Having attained 240 days in a calendar year, the applicants have based their claim under Annexure-A/11 series dated 23.11.1994 and 10.09.1993, which are part of a scheme for grant of temporary status and regularization of casual workers.

4. Respondents, by filing a counter, have opposed the prayer of the Applicants. They have stated that the scheme under Annexure-A/11 series dated 23.11.1994 and 10.09.1993 (which is the trump card of the Applicants) is not applicable to them inasmuch as the Applicants did not acquire the requisite period of 240 days casual service as on 01.09.1993, when the said scheme came into force.

5. Since the entire issue revolves round the interpretation of Annexure-A/11 series, which will decide the fate of the applicants,



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it is not desirable to go through the various averments made by the Applicants in this Original Application and the counter filed by the Respondents.

6. Appendix to Annexure-A/11 series dated 10.09.1993 outlines the grant of temporary status and regularization of casual labourers. This Scheme came into force with effect from 01.09.1993. The rules enshrined therein with regard to grant of temporary status are as under:

TEMPORARY STATUS

Temporary status would be conferred on all casual labourers who are in employed on the date of issue of this O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week)

Such conferment of temporary status would be without reference to the creation/availability of regular Group D posts.

Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed any where within the recruitment unit/territorial circle on the basis of availability of work.

Such casual labourers who acquire temporary status will not however, be brought on to the permanent establishment unless they are selected through regular selection process for Group D posts.

7. Having regard to the above position of Rules, it is to be held that the Applicants could have been conferred with temporary status with effect from the date when they acquired 240 days in a calendar year and 206 days in case of offices observing 5 days week, as the case may be, but for the misinterpretation of the said

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Rules by the Respondents-organization such benefits have not been extended to the Applicants.. The Rule for grant of temporary status is statutory in character and nowhere it restricts the conferment of temporary status in respect of casual labourers who were in position as on 10.9.1993 only, i.e., the date of issue of the Office Memorandum. It is to be noted here that the said Office Memorandum; which came into force with effect from 1.9.1993; also governs the circumstances that would occur in future in case of casual labourers. Thus, this being the situation, denial of the Respondents with regard to applicability of the scheme in question for grant of temporary status in case of the Applicants is nothing but misconception of the rules in its proper perspective and, therefore, the action of the Respondents is bad in law. It is to be further held that the applicants have a right to be considered for grant of temporary status by the operation of the said Office Memorandum dated 10.9.1993 with effect from the date when they had completed 240 days casual service in a calendar year or 206 days casual service in case of offices observing 5 days weeks, as the case may be. It is worthwhile to note that the averments made by the applicants that they had completed the requisite period of service in a calendar year (as mentioned above) have not been denied by the Respondents in their counter and therefore, it is the



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admitted position that the applicants have already completed 240 days casual service in a calendar year. This being the situation, the Respondents are directed as under:

(a) To confer temporary status on the applicants with effect from the calendar year when they had completed 240 days of casual service under the Respondents organization (206 days of casual service in respect of offices observing 5 days week); and

(b) to consider their cases for regularization against the regular vacancies, after following the due procedure of rules as enshrined in the said scheme.

8. Until regularization of the Applicants, they should not be disengaged by the Respondents from their casual engagements.

9. With the above observations and directions, both the O.A.Nos.1258 and 1319 of 2003 are allowed. No costs.


(M.R. MOHANTY)
MEMBER(JUDICIAL)