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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.511 OF 2009
Cuttack this the 16th day of November, 2010

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

1. S/Shri Tejrzi Chhatria, aged about 54 years, S/o. Sahadev Chhatria, resident of Jaipali, PO-Basantpur, P.S.-Burla, Dist-Sambalpur at present Temporary Status Worker, Office of Central Cattle Breeding Fir, Chipilima, sambalpur-768205
2. Akrura Meher, aged about 54 years, S/o. Keshab Meher, resident of rupapalli, PO-Basantpur, PS-Burla, Dist-Sambalpur at present Temporary Status Worker Office of Central Cattle Breeding Firm, Chipilima, Sambalpur
3. Sudarsan Jal, aged about 52 years, S/o. Dauda Jal, At-Rupapali, PO-Basantpur, PS-Burla, Dist-Sambalpur
4. Dambarudhar Rajhans, aged about 5 years, S/o. Arjun Rajhans, Jaipali, PO-Basantpur, PS-Burla, Dist-Sambalpur
5. Dhoba Pradhan, aged about 49 years, S/o. Harihar Pradhan, CCBF, Chipilima, PS-Burla, Dist-Sambalpur
6. Dambaru Kumbhar, aged about 48 years, S/o. Dhanu Kumbhar, At-Rupa;ali, PO-Basantpur, PS-Burla, Dist-Sambalpur
7. Bharat Besra, aged about 43 years, S/o. Laxmindra Bersra, At-Satupali, PO-Basantpur, PS-Burla, Dist-Sambalpur
8. Bharat Chandra Panda, aged about 57 years, S/o. Krishna Chandra Panda, CCBF, Chipuilima, PS-Burla, Dist-Sambalpur
9. Ramdas Suna, aged about 57 years, S/o. Rana Suna, At-Jaipali, PO-Basantpur, PS-Burla, Dist-Sambalpur
10. Jagat Bag, aged about 47 years, S/o.Gopi Bag, CCBF,Chipilima, PS-Burla, Dist-Sambalpur
11. Pabitra Muna, aged about 54 years, S/o.Upendra Muna, At-Jaipali, PO-Basantpur, PS-Burla, Dist-Sambalpur
12. Chittaranjan Barik, aged about 54 years, S/o. Joseph Barik, At-Rupapali, PO-Basantpur, PS-Burla, Dist-Sambalpur
13. Gainu Guru, aged about 53 years, S/o.Chintamani Guru, At-Jharmunda, PO-Baijamunda, PS-Burla, Dist-Sambalpur
14. Hemanta Bag, aged about 42 years, S/o.Dinabandhu Bag, At-Jaipali, PO-Basantpur, PS-Burla, Dist-Sambalpur
15. Kshyma Nidhi Deep, aged about 58 years, S/o.Jusab Deep, At-Jaipali, PO-Basantpur, PS-Burla, Dist-Sambalpur
16. Chhala Bag, aged about 48 years, S/o. Santosh Bag, At-Jaipali, PO-Basantpur, PS-Burla, Dist-Sambalpur
17. Anirudha Kumbhar, aged about 43 years, S/o. Kartik Kumbhar, At-Jaipali, PO-Basantpur, PS-Burla, Dist-Sambalpur
18. Manoranjan Patra, aged about 52 years, S/o. Gouri Patra, At-Jaipali, PO-Basantpur, PS-Burla, Dist-Sambalpur

19. Chittranjan Patra, aged about 44 years, S/o. Gouri Patra, At-Jaipali, PO-Basantpur, PS-Burla, Dist-Sambalpur
20. Janardan Mahakud, aged about 54 years, S/o. Chapadhari Mahakud, At-Gobindpali, PO-Chipilima, PS-Burla, Dist-Sambalpur
21. Chandrabhanu Nayak, aged about 52 years, S/o.Sukadev Nayak, At-Sahajbal, PO-Basantpur, PS-Burla, Dist-Sambalpur
22. Krusabha Bag, aged about 43 years, S/o. Murali Bag, At-Sahajbal, PO-Basantpur, PS-Burla, Dist-Sambalpur
23. Kailash Chhanda, aged about 46 years, S/o.Mitrabhanu Chhanda, At-Sahajbal, PO-Basantpur, PS-Burla, Dist-Sambalpur
24. Narasingha Patel, aged about 59 years, S/o.Mahadev Patel, At-Sahajbal, PO-Basantpur, PS-Burla, Dist-Sambalpur
25. Saraswati Patel, aged about 55 years, W/o.Narasingha Patel, At-Sahajbal, PO-Basantpur, PS-Burla, Dist-Sambalpur
26. Dillip Sidhartha, aged about 52 years, S/o. S.Sidhartha, At-Sahajbal, PO-Basantpur, PS-Burla, Dist-Sambalpur
27. Sajana Jagdala, aged about 59 years, W/o.Shyamsundar Jagdala, At-Jayapalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
28. Pandaba Karna, aged about 60 years, S/o.Beda Karna, At-Sahajabal, PO-Basantpur, PS-Burla, Dist-Sambalpur
29. Bhika Bhoi, aged about 58 years, S/o.Bhima Bhoi, At-Giringla Palli, PO-Kalamati, PS-Burla, Dist-Sambalpur
30. Congress Bhoi, aged about 42 years, S/o.Bhima Bhoi, At-Giringla Palli, PO-Kalmati, PS-Burla, Dist-Sambalpur
31. Bhajamana Mahar, aged about 49 years, S/o.Bibhisana Mahar, Giringla Palli, PO-Kalamati, PS-Burla, Dist-Sambalpur
32. Pitabas Mirdha, aged about 50 years, S/o. Digambar Mirdha, At-Rupapalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
33. Binod Bihar Garia, aged about 50 years, S/o.Dhanamali Garia, At-Rupapalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
34. Prahallad Banchhur, aged about 49 years, S/o.Hanu Banchhur, At-Rupapalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
35. Teli Kumbhar, aged about 40 years, S/o.Srimad Kumbhar, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
36. Kapila Nag, aged about 57 years, S/o. Rajan Nag, At-Rupalali, PO-Basantpur, PS-Burla, Dist-Sambalpur
37. Parma Nanda, aged about 49 years, S/o. Ratan Nanda, At-Rupapalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
38. Kula Dhar Nanda, aged about 51 years, S/o.Ratan Nanda, At-Rupapali, PO-Basantpur, PS-Burla, Dist-Sambalpur
39. Baman Nanda, aged about 53 years, S/o.Bhaja Nanda, At-Rupapalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
40. Lala Behera, aged about 59 years, S/o.Raghunath Behera, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
41. Sahadev Chhatra, aged about 60 years, S/o.Malia Chhatra, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
42. Jasoda Bag, aged about 53 years, W/o.Daru Bag, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
43. Shyamsundar Jagdala, aged about 59 years, S/o.Sudam Jagdala, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur

44. Gouranga Nanda, aged about 46 years, S/o.Bidya Nanda, At-Rupapalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
45. Parameswar Nanda, S/o.Bhakta Nanda, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
46. Hari Nag, aged about 48 years, S/o.Nilambar Nag, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
47. Debraj Chhatria, aged about 58 years, S/.Sadhaba Chhatria, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
48. Prahallad Tandi, aged about 49 years, S/o.Karuna Tandi, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
49. Prasanna Kumbhar, aged about 52 years, S/o.Bhaga Kumbhar, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
50. Subin Nag, aged about 40 years, S/o.Bairagi Nag, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
51. Jogendra Kumbhar, aged about 52 years, S/o. Kapur Kumbhar, At-Rupapalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
52. Purna Suna, aged about 39 years, S/o.Upendra Suna, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
53. Markanda Suna, aged about 41 years, S/o.Upendra Suna, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
54. Trinath Nag, aged about 42 years, S/o.Chhabi Nag, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
55. Surath Kumbhar, aged about 42 years, S/o.Kartik Kumbhar, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
56. Jaldhar Muduli, aged about 5 years, S/o.Jogendra Muduli, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
57. Rohit Chhatria, aged about 54 years, S/o.Chithal Chhatria, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
58. K.Raghuram Patra, aged about 55 years, S/o.K.Simadri Patra, At-Satupalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
59. Nepal Mirdha, aged about 53 years, S/o.Raghu Mirdha, At/Rupapalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
60. Minaketan Garida, aged about 59 years, S/o.Jayram Garia, At-Rupapalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
61. Ugresena Mirdha, aged about 50 years, S/o.Anand Mirdha, At-Rupapalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
62. Krishna Matari, aged about 55 years, S/o.Abhi Matari, At-Satupalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
63. Ganesh Patra, aged about 48 years, S/o.Rushi Patra, At-Satupalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
64. Subal Patra, aged about 43 years, S/o.Gayadhar Patra, At-Satupalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
65. Tanu Patra, aged about 45 years, S/o.Bibhisana Patra, At-Satupalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
66. Munu Patra, aged about 43 years, S/o.Bibhisana Patra, At-Satupalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
67. Swadhin Patra, aged about 53 years, S/o.Sanu Patra, At-Satupalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
68. Gopinath Pradhan, aged about 54 years, S/o.Kapila Pradhan, At-Satupalli, PO-Basantpur, PS-burla, Dist-Sambalpur

69. Sudam Padhi, aged about 49 years, S/o.Surendra Padhi, At-Satupalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
70. Subal Padhi, aged about 45 years, S/o. Surendra Padhi, At-Satupalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
71. Smt.Bharati Barik, aged about 41 years, W/.Nande Barik, At-Jaipalli, PO-Basantpur, PS-Burla, Dist-Sambalpur
72. Smt.Jasoda Nag, aged about 41 years, D/o.Chindra Barik, At-CCBF, Chipilima, PO-Basantpur, PS-Burla, Dist-Sambalpur
73. Aarkhita Kumbhar, aged about 52 years, S/o.Kumar Kumbhar, At-Kumel Singha, PO/PS-Godbhaga, Dist-Bargarh
74. Biju Nag, aged about 60 years, S/o.Nila Nag, At-Jamadarpalli, PO-Hirakud, Dist-Sambalpur
75. Atish Kumar Nayak, aged about 46 years, S/o.Laxman Nayak, CCBF, Chipilima, PO-Basantpur, PS-Burla, Dist-Sambalpur
- All are at present working as Temporary Status Workers in the Office of Central Cattle Breeding Farm, Chipilima, Sambalpur-768025, Orissa

...Applicants

By the Advocates: Mr.K.C.Kanungo

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- Union of India represented through
1. Secretary to Govt. of India, Ministry of Agriculture (Department of Animal Husbandry and Dairying), Krishi Bhawan, New Delhi
 2. Secretary to Government of India, Ministry of Personnel, Public Grievance & Pension, Department of Personnel Training, North Block, New Delhi
 3. Director, Central Cattle Breeding Farm, Chipilima, PO-Basantpur, PS-Burla, Dist-Sambalpur-768025, Orissa

...Respondents

By the Advocates: Mr.U.B.Mohapatra, SSC

ORDER

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER:

In the present Original Application 75 applicants have approached this Tribunal seeking the following relief.

“...to direct the Respondents to bring the applicants and their Co-TSW workers to the regular establishments as Group-D employee forthwith for ends of justice.
And to direct Respondents to treat the eligible casual workers as per their seniority and as per the Scheme 1993 at Annexure-A/1 holder of the regular post of the Group-D w.e.f. the existence of vacancies since 1993 as disclosed at Annexure-A/4 with all arrear benefits and entitlements for the ends of justice.

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And to pass any order/orders, direction/directions and relief/felief(s) as deemed fit and proper”.

2. It is the case of the applicants that while working as Casual Labourers under the Respondent-Department, they were granted Temporary Status in the year 1993 in pursuance of the Scheme called “Casual Labourers (Grant of Temporary Status and Regularization) 1993” , hereinafter called, Scheme, 1993. Their grievance is that after conferment of Temporary Status in the year 1993, they have not been brought over to regular establishment as Group – D cadre in accordance with the Scheme, 1993 despite repeated persuasion. Hence, this Original Application with the aforesaid prayer.

3. The Respondents have filed their counter opposing the prayer of the applicants on very many grounds. It is to be noted that although they have inter alia urged imposition of ban on filling up of the Group-D posts, abolition of posts and demand of casual labourers for their regularization enmass etc. which stood as a stumbling block for regularization of the services of the applicants, those grounds are out of place and hence left out of consideration as it is not expected of the Tribunal to take cognizance of the same that had happened before the disposal of O.A.No.230/2000, i.e., 26.3.2003 and therefore, the Tribunal is confined to the averments made in the counter as to what had happened after the 26.3.2003 when O.A.No.230/2000 was disposed of. Setting apart the above, the sole point which the Respondents have urged in their counter for consideration is that since the present applicants had approached this Tribunal earlier in O.A.No.230/2000 for regularization of services which was dismissed vide order dated 26.3.2003, claiming similar in relief in the instant O.A. is hit by the principles of res judi cata. In the circumstances, the Respondents have prayed that the O.A. being devoid of merit is liable to be dismissed.

4. Applicants have filed their rejoinder to the counter.

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5. Heard Shri K.C.Kanungo, learned counsel for the applicants and Shri U.B.Mohapatra, learned Senior Standing Counsel appearing on behalf of the Respondent-Department and perused the materials on record.

6. On a reference being made to O.A.No.230/2000, it reveals that the main relief the applicants therein had claimed was for regularization of their services from their date of their joining as casual labourers by sanctioning equal numbers of posts. It is in this background this Tribunal could come to a finding, the relevant portion of which reads as under:

“In the instant case, as the Respondents have framed a scheme in this behalf, the process of regularization will follow the terms and conditions as provided therein. Apart from the above, since the reliefs claimed by the applicants ip so facto involve a policy decision by the employer, in the aptness of things, I do not feel inclined that the Tribunal should formulate the policy guidelines to manage the business of the Cattle Breeding Farm. In the given circumstances, the matter is best left to the employer/Department for consideration according to their job requirements”.

7. Before determining the point, it would be worthwhile to note that the objection raised by the Respondent-Department that the present O.A. is hit by the principles of res judi cata holds no water inasmuch as the main relief claimed by the applicants herein is to regularize their services in Group – D establishment forthwith in consistent with the Scheme, 1993.

8. It is to be noted that even though the O.A.No.230/2000 was dismissed, but the process of regularization ought to have been followed by the Respondent-Department based on the job requirement as observed by this Tribunal in line with the Scheme, 1993. Nowhere in the counter the Respondents have stated as to what happened to the process of regularization of Temporary Status Casual Labourers like the applicants based on job requirement after the disposal of O.A.No.230/2000. I am conscious that

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the regularization cannot be claimed as a matter of right. But at the same time it cannot be ruled out that right accrues on the applicants for being considered for regularization in accordance with the Scheme, 1993, against the available regular Group-D vacancies even after the disposal of the O.A.No.230/2000 by this Tribunal. Either of the parties has not produced any material as to the existence of regular Group-D vacancies as on date to enable the Tribunal to come to a definite finding. It is also not the case of the Respondents that at present they do not have any requirement of job for regularization in accordance with Scheme, 1993, as held by this Tribunal in O.A.No.230/2000. In this connection Paragraph-2(ii) of letter dated 24/25.11.1994 issued by the Ministry of Agriculture (Annexure-A/2) which is germane to the issue reads as under:

“(ii) 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”.

9. Paragraph-8 of Appendix issued by the Department of Personnel & Training enclosed to Office Memorandum dated 10.9.1993 (Annexure-A/1) lays down the procedure for filling up of Group-D posts. It would be profitable to quote hereunder the relevant portion thereof.

Procedure for filling up of Group D Posts

- 8.(i) Two out of every three vacancies in Group ‘D’ cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel & Training from amongst casual workers with temporary status. However, regular Group ‘D’ staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfill the minimum qualification prescribed for post regularization will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be requisite
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qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

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10. In future, the guidelines as contained in this Department's O.M. dated 7.6.88 should be followed strictly in the matter of regularization of casual employees in Central Government Offices".

10. None of the parties has produced O.M. dated 7.6.88 issued by the Department of Personnel & Training to enable the Tribunal to facilitate any decision. Be that as it may, the Respondent-Department have not been able to make a clear statement as to what prevented them from considering the applicants for regularization of their services based on the job requirement in accordance with the Scheme, 1993, as held by this Tribunal earlier in O.A.No.230/2000. In the circumstances, the Tribunal feels it proper to direct the Respondents as under:

- i) To determine the existing live Group-D vacant posts.
- ii) To prepare a seniority list of Temporary Status Casual Labourers subject to attainment of requisite qualification and experience meant for the posts so determined and subject to relaxation if any, as per Recruitment Rules.
- iii) And accordingly, consider the Temporary Status Casual Labourers including the present applicants for regularization against the live Group-D vacant posts having regard to other terms and conditions of the Recruitment Rules.

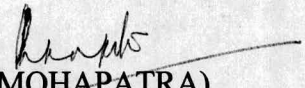
11. The above exercise shall be completed within a period of three months from the date of receipt of this order.

12. Last but not the least, I feel it proper to observe that the negligent attitude of the Respondent-Department in the instant case is writ large. In the circumstances, it is high time that this matter should not go unnoticed by Respondent No.1 indefinitely, without any action for such lapse and culpability.

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In the result, the O.A. is disposed of as above. No costs.



(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER

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