

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA No. 652 of 1996

Present : Hon'ble Mr. D.C.Verma, Vice-Chairman

Hon'ble Mr. Sarweshwar Jha, Administrative Member

Sujit Kr. Dutta & 45 Others

... Applicants

- VS -

- 1) Union of India service through the Secretary,
M/o Defence, Govt. of India, Rakshma Mantra-
laya, New Delhi.
- 2) Director General of Military Farms, Army
Headquarters, West Block, R.K.Puram, New Delhi.
- 3) Adjutant General, AGS Branch, Army Headquarters,
R.K. Puram, New Delhi.
- 4) Deputy Director of Military Farms, Eastern
Command Headquarters, Fort William, Calcutta.
- 5) Officer-in-Charge, Military Farm, Binnaguri
Cantt. Jalpaiguri.

... Respondents

For the Applicants : Mr. N.C. Chakraborty, Counsel

For the Respondents : Mrs. U. Sanyal, Counsel

Date of Order : 17.9.2004

ORDER

MR. SARWESHWAR JHA, AM

This O.A. has been filed with a prayer that the order of the respondents dated 14-12-1994 retrenching the 46 monthly rated casual labourers may be quashed, and that, pending finalisation of the regularisation scheme they may be granted temporary status as per the policy laid down by the Government on the subject with all consequential benefits.

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2. The facts of the matter, in brief, are that the applicants have claimed that they had been in the service of the respondents between 1986/88 and December, 1994. They have submitted that before being employed as monthly rated casual labour they had to complete certain necessary formalities which included sponsorship by the Employment Exchange, medical examination, police verification etc. They were served with retrenchment letter without compliance of the relevant provisions of the Industrial Disputes Act in the matter of retrenchment. They have claimed that they submitted representations to the authorities concerned for regularisation of their services, but the same were not responded to. They filed Writ petition under Article 226 of the Constitution of India in the Hon'ble High Court at Calcutta vide No. C.O. 255(W) of 1994. However, the respondents had taken the plea that the appropriate forum for judicial review was the Central Administrative Tribunal and not the Hon'ble High Court, ^{and,} therefore, the case was filed before the Tribunal.

3. Explaining the process of appointment/employment in their case, the applicants have submitted that they were engaged in the Military Farm following the ^{same} procedure for selection as was followed in the case of regular employment. They were issued interview letters and they were subjected to medical test. They also submitted attestation forms. They were, in any case, under the impression that while being employed, their engagement would become regular. However, it was, to their surprise that the authorities concerned were not aware of the nature of their employment and that their services were terminated without assigning any reason or any compensation in lieu thereof. In this connection, they have drawn attention to the provisions applicable to the industrial workers whereunder services of those casual labourers who have put in continuous service of six months cannot be terminated without assigning any reason. They have maintained that such casual workers are, in fact, brought on the regular strength of the respondents. A reference

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has also been made to the decision of the Hon'ble Supreme Court in Naider & Anr. -VS- Delhi Administration & Anr. decided in September, 1988 directing the respondents to prepare a scheme for absorbing the casual labourers as regular employees. A reference has also been made to another case, namely Rajesh Kumar Soni & Ors. - Vs - Ministry of Environment, Forest and Wild Life & Ors. decided in March, 1988 in which the Hon'ble Supreme Court held that there was regular need of their employment had been taken note of and the respondents had been directed to absorb the petitioners as well as the similarly situated persons. A reference has also been made to the decision of the Hon'ble Supreme Court in the case of State of Haryana- Vs - Piara Singh, decided in August, 1992 in which also the similar aspect of the matter has been upheld.

4. The applicants have claimed that their case is covered under the decisions of the Hon'ble Apex Court as cited above and also under the Circular of the Department of Personnel and Training, Government of India on the subject.

5. The respondents, however, have mentioned that the applicants were provided with work purely on the basis of casual/seasonal labourer on day-to-day basis and their wages were paid at the end of the month. Due to reduction in permanent establishment, the services of the casual/seasonal labourers were no longer required. Therefore, these labourers were retrenched on and from 15-12-1994 as per Military Farm Binnaguri letter No. E-2/Retrenchment/BNG dated 15-12-1994 addressed to all affected labourers. In paragraph 4(c) the respondents have submitted the details of the provisions under which they had acted in the matter. They have further submitted that the applicants were offered their entitlements, i.e. one month's wages in lieu of one month's notice and 15 days' salary at current rates as compensation as per Rules 5 and 6 of the Central Civil (Temporary Services) Rules, 1964.

6. The respondents had earlier submitted the status of the Military Farm which was established on ad-hoc basis and in which most of the workers were engaged as casual labourers. It was in December, 1993 that the Farm, amongst others, had been approved to run on regular basis and, with that, most of the operations in the Farm had been progressively mechanised and man-power requirement was brought down as per scale/authorisation as laid down depending on the strength of cattle and the various functions related thereto.

7. The applicants, in their rejoinder, have annexed a seniority list as prepared by them, according to which out of ~~66~~ employees 17 have been retained by the respondents and their services have been regularised without conforming to their seniority. In other words, they have submitted that services of the juniors have been regularised on pick and choose basis. They have also referred to the Sl. Nos. of the said employees and have alleged that the applicants have been discriminated against arbitrarily. Some of the other things mentioned by them in the rejoinder are reiteration of what they had submitted earlier in their original application. While not accepting the settlement as decided in the case of the applicants, they have reiterated that settlement/compensation should have been decided in their case as per the relevant provisions of the Industrial Disputes Act, otherwise the retrenchment order should be void ab-initio.

8. In order to press their case further, the applicants have cited the decision of Patna Bench of the Tribunal in O.A. No. 541/93 decided on September 26, 1995 in the case of Surendra Prasad and Others - Vs - Union of India and Others, reported in (1996) 33 Administrative Tribunal Cases 815, ^{in which,} amongst other things, it has been held that the establishment in which they were working was closed and that the applicants should be absorbed and regularised elsewhere. In this connection, the applicants have argued that they could have been absorbed in other Farms, as named by them in paragraph 8 of the rejoinder.

8. *[Signature]*


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9. It is thus observed that the applicants, who served the respondents as casual labourers from 1988 to 1994 on day-to-day basis and who were paid wages at the end of the month, were disengaged by the respondents due to reduction in their permanent establishment when their services were no longer required. The respondents did agree to pay them one month's wages in lieu of one month's notice and 15 days' salary at current rates as compensation as per Rules 5 & 6 of the Central Civil Services (Temporary Services) Rules, 1964. The applicants, however, refused to accept the said settlement, finding the same as not as per the relevant provisions of the Industrial Disputes Act. It is also observed that while the respondents have acted in terms of other relevant provisions of CCS(Temporary Services) Rules, 1964 and have thus not acted arbitrarily or illegally, it is not appreciated as to how the applicants have claimed the benefit under the provisions of ^{the} Industrial Disputes Act by filing this O.A., without approaching the appropriate forum in this regard. It is also quite obvious from the submissions of ^{the} the respondents that they have no longer required ^{the} services of the applicants, who were disengaged by them in 1994 itself. Their services have not been utilised by the respondents thereafter at any stage. We do not, however, find any mention of whether what have been submitted by the applicants in the rejoinder in regard to retention/regularisation of some 17 employees out of 66 employees without following strictly their seniority is correct. We also do not find any response to the suggestion given by the applicants that efforts should have been made to absorb the applicants in other units of the respondents, as specified in the rejoinder. It is quite important that a reference to this aspect of the matter had been made in the decision of Patna Bench of the Tribunal in the case cited above. We do appreciate that ^{while} Military Farm, Binnaguri, being a small organisation and having reduced their permanent establishment, could not have accommodated all the applicants on regular basis, the respondents could have taken up the matter with the

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higher authority overseeing/administering the other Military Farms in regard to absorption/regularisation of the services of the applicants in other Military Farms of the respondents.

10. In the circumstances and having heard Id. Counsel for both the parties, we are, ~~therefore~~, of the considered opinion that the respondents need to make efforts to explore the possibility of re-engaging/regularising the services of the applicants in other units of theirs, as mentioned by the applicants in paragraph 8 of the rejoinder, and ⁱⁿ any other such organisations which have been left out by the applicants, following the relevant rules/instructions/scheme as formulated by the Govt. of India, Department of Personnel and Training and also keeping in view the decision of this Tribunal as cited above and other decisions of the Hon'ble Apex Court on the subject. The respondents are further directed to communicate the decision in the matter to the applicants within a period of six months from the date of receipt of a copy of this order through a reasoned and speaking ^{order}. With this, the O.A. stands disposed of in terms of the above observation/direction, with no order as to costs.


Member(A)


Vice-Chairman