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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,

J\_O\_D\_H\_P\_U\_R.

Date of Order : 22.12.2000

O.A. No. 205/1996

1. Ganesha Ram S/O Shri Khima Ram,
2. Majid Khan S/O Shri Amar Khan &
3. Hamim Khan S/O Shri Meenu Khan

All Residents of Village Mitadi, District Barmer,  
Ex- Mazdoors, 41(1), Supply Platoon, Jassai,  
District Barmer.

... Applicants

vs

1. Union of India through the Secretary to the Government  
Ministry of Defence, New Delhi.
2. Officer Commanding, 41 (I), Supply Platoon Jassai  
District Barmer.

... Respondents

Mr. Vijay Mehta, Counsel for the Applicants.

Mr. S.K. Vyas, Counsel for the Respondents.

CCRAM :

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

O\_R\_D\_E\_R

( PER HON'BLE MR. GOPAL SINGH )

In this application under Section 19 of the  
Administrative Tribunals Act, 1985, applicants have prayed  
that the verbal orders of termination of their services by  
the respondents be quashed and the respondents be directed  
to continue them in service. It has also been prayed that  
the applicants be reinstated with full ~~back~~ wages and con-  
sequential benefits. Applicants have also prayed for a direc-  
tion to the respondents to give them temporary status and re-  
gularise their services.

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*(Signature)*

2. This O.A. was ~~xxx~~ dismissed by our order dated 05.9.1997 with the following observations :

"15. The applicants have alleged that their services were terminated by verbal order, whereas, the respondents have alleged that applicants themselves stopped coming to work and stopped rendering their services. From the contentions of the parties, it appears to be a disputed matter. But the position remains that the applicants were daily rated casual workers, therefore, they were entitled to the wages only then they had worked. As described above, the services of daily wagers can be dispensed with at any time. Therefore, in my opinion, there was no need to serve any Notice on them. The O.A. deserves to be dismissed.

16. The O.A. is, therefore, dismissed with no order as to costs."

3. Applicants approached the Hon'ble High Court of Rajasthan against the orders of this Tribunal dated 5.9.97 vide D.B. Civil writ Petition No.3854/97. The said Writ Petition was disposed of on 11.8.1998 by Hon'ble the High Court with the following observations :

"Heard learned Counsel for the parties.

The judgment of the learned Central Administrative is in contradiction in terms. Petitioners were casual labours, engaged on daily wages basis and were granted temporary status. They had approached the Central Administrative Tribunal. That Petition is dismissed. The judgment of the learned Tribunal is in contradiction in terms. Hence, the same is liable to be set aside.

Accordingly, this writ Petition is allowed and the matter is remanded to the learned Tribunal, which shall decide the case of the Petitioners afresh and grant them all consequential benefits, if they have completed two hundred forty days."

4. In terms of the direction of Hon'ble the High Court we only require to find if the applicants have completed 240 days of work with the respondents-department, and if so grant them all consequential benefits. To resolve this controversy, directed we had learned Counsel for the respondents to produce before us the Attendance Register of the applicants. The same has

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been produced before us, and we have gone through the Attendance Register. The respondents have also filed a statement of number of days of each applicant has worked during the year 1992 to 1996 vide Annexure R/2. It is seen from the statement that during the year 1993, 1994 and 1995, the applicants were engaged for 16 or 17 days in a month and thus they have <sup>been</sup> shown to have completed 180 days to 204 days in a year. It is on the basis of this that the respondents have contended that the applicants had not worked for 240 days in a year to be eligible for grant of temporary status or regularisation. A perusal of Attendance Register produced before us reveal that Sundays and holidays were not counted as working days for the applicants. Learned Counsel for the applicants in this connection, cited the case of Shakuntla Devi (Smt) Vs. Secretary, Department of Food, Ministry of Food & Civil Supplies (1991) 18 Administrative Tribunals Cases 142 (II), in support of his contention that Sundays and holidays should also be counted while calculating number of days. Relying upon the judgment of Hon'ble Supreme Court in H.D. Singh Vs. Reserve Bank of India, AIR 1986 SC 132, wherein Hon'ble the Supreme Court had held that Sundays and holidays should also be reckoned for the purpose of computing the number of 240 days of working, the Principal Bench of the Central Administrative Tribunal held that the principle enunciated by the Supreme Court as above would be applicable for limited purpose of computing the number of working days put in by casual worker. In view of the law laid down by Hon'ble the Supreme Court in regard to counting Sundays and holidays while calculating the number of working days put in by the casual labour, we are of the view that the applicants are entitled to be given the benefit of Sundays and holidays for the purpose of counting of their

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working of 240 days in a year. And, if that is done, all the three applicants would be completing 240 days of working in a year for the year 1993, 1994 and 1995. In that view of the matter, the applicants would be entitled to regularisation as per the Government of India scheme on the subject.

5. In regard to re-engagement of the applicants, it is to be pointed out that the respondents have stated that the applicants' services were not terminated, but the applicants themselves stopped coming to work and stopped rendering their services. In this view of the matter, we are of the view that the applicants can be directed to report to the respondents for re-engagement, and respondents would re-engage the applicants forthwith on the existing terms and conditions. The applicants would, however not be entitled to any back wages.

6. In the light of above discussion, we pass the order as under :

"The Original Application is allowed. Applicants are directed to report to the respondents within a week for re-engagement, and respondent No.2 is directed to re-engage the applicants forthwith on the existing terms and conditions.

The respondents are directed to give the benefit of counting Sundays and holidays while calculating the number of working days in a year. Since all the applicants would have completed 240 days of working during the year 1993, 1994 and 1995 after taking into account Sundays and holidays, the respondents are directed to consider the case of the applicant for regularisation on a Group 'D' post under the Government of India scheme for grant of temporary status and regularisation of casual labours. We allow three months time to the respondents to comply with these orders. Parties are left to bear their own costs.

Gopal Singh  
( GOPAL SINGH )  
Adm. Member

B.S. RAIKOTE  
( B.S. RAIKOTE )  
Vice Chairman

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