

क.प्र.म. (प्रक्रिया) निवाली के दियम 22 के अन्तर्गत निः मूलक प्रिया

CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH

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ORIGINAL APPLICATION NO. 179 of 2004, 173, 174, 175, 344, 345 of  
2005 and 32 of 2006

JODHPUR : THIS THE 27<sup>th</sup> DAY OF JULY, 2007

Coram : Hon'ble Mr. R.R.Bhandari, Member (A)

Bhanu Pratap S/o Shri Parikan aged 24 years, Casual Labour 486 COY ASE (Supply), Type B Sriganganagar Resident of C/o Lal Ji, Guru Nank Basti, Gali No.1, Sriganganagar.

.....Applicant of OA No. 179/2004.

Udal Singh S/o Shri Sobran Singh aged 33 years, Ex- Casual Labour, 486 COY ASE (Supply) Type 'B' Sriganganagar, R/o Chandi Mohallah, Gali No. 10, Village Sadhiwali, District - Sriganganagar.

.....Applicant of O.A. No. 173/2005.

Prem Bahadur S/o Shri Kanak Bahadur aged 29 years, Ex - Casual Labour, 486 COY ASE (Supply) Type 'B' Sriganganagar, R/o C/o Suraj Bhawan, Gali No. 10, Village Sadhiwali, District Sriganganagar.

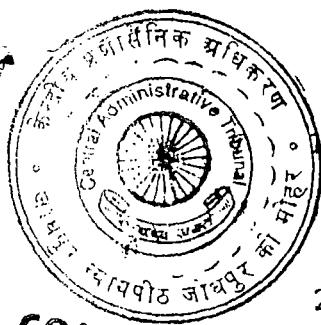
.....Applicant of O.A. No. 174/2005.

Girendra Singh S/o Shri Sobran Singh aged 38 years, Ex - Casual Labour, 486 COY ASE (Supply), Type 'B' Sriganganagar, R/o C/o Chandi Mohallah, Gali No. 10, Village Sadhiwali, District - Sriganganagar.

.....Applicant in O.A. No. 175/2005.

Narain Das S/o Shri Tika Ram aged 27 years Resident of Village Baralopur, District Eta, UP Ex. Casual Labour 486, COY ASE (Supply), Type B, Sriganganagar.

.....Applicant of OA No. 32/2006.



COMPARED &  
CHECKED

### Versus

Union of India through the Secretary, Government of India,  
Ministry of Defence, Raksha Bhawan, New Delhi.

2. Commanding Officer, 486, COY ASE (Supply) Type 'B'  
Sriganganagar.

.....Respondents.

1. Narain S/o Shri Pukhji aged 40 years.
2. Ganesh S/o Shri Narain aged 25 years.

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3. Shankra Ram S/o Shri Sujna Ram aged 25 years.
4. Shrawan S/o Shri Narain aged 20 years.
5. Dungra Ram S/o Shri Kirta Ram aged 25 years.

All applicants - Ex. Casual Labour in Station Headquarter, Jasai, under respondent No. 2; address of applicant Nos. 1 to 4 Village Jasai, District Barmer. Address of applicant No. 5 Village Juna Patasar, District Barmer.

....Applicants in OA 344 of 2005.

### **Versus**

1. Union of India through the Secretary, Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Station Commandant, Station Headquarters, Jasai, District Barmer.

....Respondents.

1. Sawai Singh S/o Shri Sat Singh aged 20 years.
2. Chhagan Kanwar Wife of Shri Taneraj Singh aged 24 years, L.R. Of Taneraj Singh S/o Shri Kamal Singh.
3. Shaitan Singh S/o Shri Padam Singh aged 26 years.
4. Dost Ali S/o Shri Sumer Khan aged 20 years.

All applicants - Ex. Casual Labour in Station H.Q., Jasai under the respondent No. 2 : Address of applicants 1 to 3 Village Jasai, District Barmer , Address of applicant no. 4 : Village Mithadi, District Barmer.

....Applicants of OA No. 345 of 2005.

### **Versus**

Union of India through the Secretary, Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.

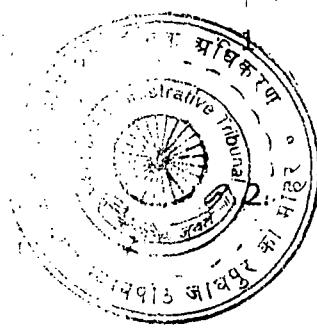
Commanding Officer, Station Head Quarters, Jasai, District Barmer.

...Respondents.

Present:

Mr. Vijay Mehta, counsel for the applicants.

Mr. Vineet Mathur, counsel for the respondents.



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ORDER  
[BY THE COURT]

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All these seven cases have been clubbed together as they are similar in nature. All these cases belong to Units of Army. The relief sought in all these cases is quite common. In all these cases, the applicants were engaged as Casual Labours and their services were discontinued in similar manner. Therefore, these are being disposed of by this one order.

2. Shri Bhanu Pratap; Narain and four others; Sawai Singh and three others; Udal Singh; Prem Bahadur; Girendra Singh and Narain Das have filed these seven Original Applications under Section 19 of the Administrative Tribunals Act, 1985, for their reinstatement and regularisation / granting temporary status on a Group 'D' post in their respective Units.

3. In brief, the factual matrix of these seven cases are as follows :-

**1. BHANU PRATAP OA NO. 179/2004**

- (i) Impugned Order: A Certificate issued by a Major, of 486 COY ASE in 2004 indicating working as Casual Labour since January 1998.
- (ii) Relief Sought : Regularisation/Accord Temporary Status
- (iii) Initial Engagement : January 1998  
: March 1998 (As per respondents).
- (iv) Termination /Last engagement : Continues as per the applicant, while last engaged in January 2004 as per respondents.
- (v) Reason for Termination/Last Engagement :  
Continues as per applicant.  
Not coming on his own as per respondents.

**2. NARAIN AND FOUR OTHERS, OA 344/2005**

- (i) Impugned Order: A Security Pass issued in favour of the applicants by the Lt. Col., Jasai, Barmer.



(ii) Relief Sought : Reinstatement & Regularisation/Accord Temporary Status.

(iii) Initial Engagement : For Narain Casual Labour in April/1996. For other 4 applicants : 1.3.2004.

(iv) Termination/Last engagement : 30.11.2004 as per applicants; December 2004 as per the respondents.

(v) Reason for Termination/Last Engagement : Discontinued by verbal orders as per applicants. Not coming on their own as per respondents.

**3. SAWAI SINGH & ORS. OA NO. 345/2005**

(i) Impugned Order: A Security Pass issued by Lt. Col., Jasai, Barmer.

(ii) Relief Sought : Reinstatement & Regularisation/Accord Temporary Status.

(iii) Initial Engagement : March 2004

(iv) Termination /Last engagement : 30.11.2004 as per applicants; 1.12.2004 as per respondents.

(vi) Reason for Termination/Last Engagement : Discontinued by verbal orders as per applicants. Not coming on their own as per respondents.

**4. UDAL SINGH OA NO. 173/2005**

(i) Impugned Order: A Certificate issued by a Major of 486 COY ASE Unit in April 1999.

(ii) Relief Sought : Reinstatement & Regularisation/Accord Temporary Status.

(iii) Initial Engagement : As Casual Labour in January 1996.

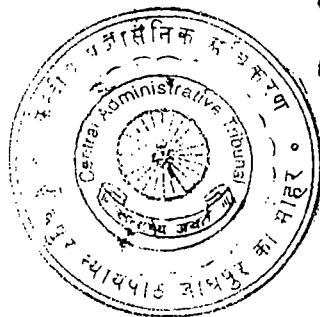
(iv) Termination /Last engagement : 15.6.2005 as per applicants and 20.6.2005 as per respondents.

(v) Reason for Termination/Last Engagement : Discontinued by verbal orders as per applicants. Not coming on his own as per respondents.

**5. PREM BAHADUR OA NO. 174/2005**

(i) Impugned Order: A Certificate issued by a Major of the 486 COY ASE Unit in October 2003.

(ii) Relief Sought : Reinstatement & Regularisation/Accord Temporary Status.



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- (iii) Initial Engagement : February 1991 as Casual Labour
- (iv) Termination /Last engagement : 15.6.2005 as per applicant; 20.6.2005 as per respondents.
- (v) Reason for Termination/Last Engagement : Dis-continued by verbal orders as per applicants. Not coming on his own as per respondents.

#### **6. GIRENDRA SINGH OA NO. 175/2005**

- (i) Impugned Order: Photocopy of Identity Card issued in 1999 by Lt. Col., Sriganganagar.
- (ii) Relief Sought : Reinstatement & Regularisation/Accord Temporary Status.
- (iii) Initial Engagement : As Casual Labour in the year 1992
- (iv) Termination /Last engagement : 30.4.2005
- (v) Reason for Termination/Last Engagement : Discontinued by verbal orders as per applicant. Not coming on his own as per respondents.

#### **7. NARAIN DAS OA NO. 32/2006**

- (i) Impugned Order: Photocopy of Identity Card issued, dated 24.10.1997 by 486 COY ASC 1999.
- (ii) Relief Sought : Reinstatement & Regularisation/Accord Temporary Status.
- (iii) Initial Engagement : As Casual Labour in November 1992.
- (iv) Termination /Last engagement : January 2006 as per applicant, December 2005 as per respondents.
- (v) Reason for Termination/Last Engagement : Discontinued by verbal orders as per applicant. Not coming on his own as per respondents.



4. Heard the learned counsel for both the parties at length and perused the records of these cases.

5. The learned counsel for the applicants cited Annex. A/3 of O.A. No. 179/2004, para 2 of which was read and is reproduced below  
- (Extract of Min. of Def. Memo No. F 20/3/82-D (Appts), dated

"It has been decided that the Model Standing Orders referred to above be adopted by the Ministry of Defence in all its units, establishments. Services Headquarters and Inter-Services Organisations are, therefore, requested to take suitable action immediately so that the provisions contained in the Model Standing Orders are implemented by the units / establishments with effect from 1<sup>st</sup> April, 1982. The Standing Orders may prominently be displayed by each unit / Establishment."

Then cited Annex. A/1 and A/4 of O.A. No. 179/2024. Annex.

A/4 is a letter issued by the Dakshin Command Mukhayalaya in September 1984. The learned advocate argued that from Annex. A/1, it is quite clear that the applicant Bhanu Pratap has been working for over six months and, therefore, he should be regularized. He brought to my notice, paras 4.4 to 4.6 of the reply of the respondents and mentioned that the applicant continues on the job and if it is no so then it is the duty of the respondents to prove their contention. He cited para 15 of the Model Standing Order about regularisation. The same is reproduced below :-

(Extract of Draft Model Standing Order for Casual Labours)

"15. Regularization



- (i) A casual workman who has completed six months of continuous service in the same establishment or under the same employer within the meaning of sub clause (b) of clause (2) of section 25 B of the Industrial Disputes Act, 1947, shall be brought on to the regular strength of the establishment and his pay shall be fixed at the minimum in the time scale of pay applicable to the work he has been doing as casual workman.
- (ii) A casual workman who has completed 90 days of continuous service in the same establishment or under the same employer shall be given preference for such casual employment in that establishment or under the same employer over a workman who has not completed his period of 90 days."

6. The learned counsel argued that "the Scheme for grant of Temporary Status and Regularisation of Casual Workers" - issued on 10.9.1993 does not withdraw the Model Standing Order quoted earlier.

7. The learned counsel for the applicant cited the following cases in support of his arguments :

(i) 1994 SCC Suppl. Vo. 2 Page 56

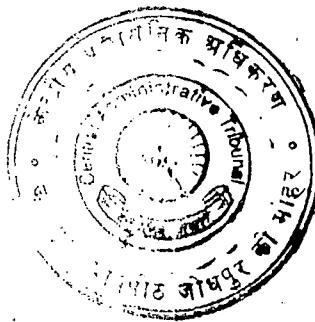
(ii) This Tribunal's Order dated 16.9.2003 in O.A. No. 314 of 1992 in the case of Om Prakash Vs. Union of India and Ors.

8. The learned counsel summed up his arguments mentioning that (i) the Model Standing Order is in force even now; (ii) it is on the part of the management to file muster rolls which have not been done so far and (iii) no employee including a casual labour can be removed from service without taking disciplinary action as per the rules of the Organisation.

9. The learned counsel for the respondents made the following averments :-

(i) He questioned the maintainability of these cases as in these O.As., there is no impugned order and also that Annex. A/1 is either a certificate issued without giving the file number / letter number and the name of the person signing the certificate, or it is an Identity Card issued for the purpose of entering into the military area. Since no impugned order is quoted, the cases are not maintainable and in support he cited this very Bench's decision in the case of O.A. no. 71/2004.

(ii) He submitted a signed copy of a statement by one



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Major, D.V. Bhaskar, giving the yearwise employment of the applicant Shri Bhanu Pratap from 1998 to 2004 in the O.A. No. 179/2004. This is dated 29.8.2004. He countered the argument put forth by the applicant's counsel that Shri Bhanu Pratap is in service even now.

10. The learned counsel for the respondents argued that the Model Standing Order issued in 1982 is no more valid. It was brought out that this model standing order was issued at a time when there was no other scheme for casual labour who were in service. This Model Standing Order was up dated from time to time in 1986 and 1988. Later on the Apex Court's decision, the Deptt. Of Per. & Trg. (D.O.P.T.) issued "Scheme for Grant of Temporary Status and Regularization of Casual Workers" in September 1993 and kept at Annex. A/2 of O.A. No. 179/2004. This Scheme of 1993 was formulated and was only for one time. Since all the applicants excepting Shri Prem Bahadur, Girendra Singh and Narain Das were employed after that crucial date, this Scheme is not applicable to them. And for Shri Prem Bahadur, Girendra Singh and Narain Das perhaps they were not fulfilling other conditions as per the Scheme of 1993.

11. The learned counsel then referred Para 'C' of this very Scheme, which is reproduced below :



**"Scheme for Grant of Temporary Status and Regularization of Casual Workers.**

The guidelines in the matter of recruitment of persons on daily wage basis in Central Government offices were issued vide this Department's O.M. No. 49014/2/86-Estt (c), dated 7-6-1988. (Sl. No. 310 of Swamy's Annual, 1988). The policy has further been reviewed in the light of the judgment of the CAT, Principal Bench, New Delhi, delivered on 16.2.1990, in the writ petition filed by Shri

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Raj Kamal and others Vs. Union of India and it has been decided that while the existing guidelines contained in OM, dated 7-6-1988 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Government offices other than Department of Telecom, Posts and Railways may be regulated by the scheme as appended."

The learned counsel for respondents mentioned that all the applicants fulfilling these conditions, have been regularised at that point of time and that now none of the applicants are entitled for any benefit as per this scheme of 1993.

12. The learned counsel for respondents argued that in O.A. No. 179/2004, Annex. A/4, was issued by the Army Ordnance Corps, whereas, the applicant Shri Bhanu Pratap worked in Army Supply Corps. These two are different Units and therefore it is not relevant in this particular case.

13. The learned counsel cited this Bench's judgement in O.A. No. 71/2004 in the case of **Kishore Kumar and Ors. Vs. UOI & Ors** and argued at length that this controversy had been sorted out at that very point of time in its judgement by this very bench on 10.12.2004. In the light of this judgement which has got a very large number of similarities with the seven cases under consideration, these OAs need to be disposed of in like manner. He also cited the Apex Court's judgement in the case of **State of Karnataka Vs. Uma Devi** reported in (2006) 4 SCC 1.

14. At this stage, the learned counsel for the applicant brought to our notice Annex. A/5 attached in O.A. No. 179/2004. Annexure A/5 is a judgement in O.A. No. 205 of 1996 by this very Bench. He read the



"4. .... The respondents have also filed a statement of number of days of each applicant 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 been shown to have completed 180 days to 204 days in a year. ....

5. In regard to re-engagement of the applicants, it 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."



The learned counsel for the applicants' mentioned that this judgement has been upheld by the Hon'ble High Court as brought out in Annex. A/6 of O.A. No. 179/2004 and, therefore, all these O.As. need to be allowed with due relief.

15. On the issue of impugned order without any file number / authority, the learned counsel for the applicants argued that this plea should have been raised in the Counter itself so that it could have been covered in the rejoinder. Since this has not been mentioned in the counter, it cannot be raised at this late stage. Regarding the authenticity of Annex. A/1 in O.A. No. 179/2004, the applicants'

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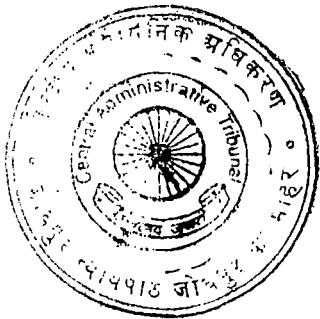
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counsel mentions that authenticity was never questioned earlier and therefore, should be treated as authentic.

16. The learned counsel for the respondents argued and referred few paras of the Judgement in OA No. 71/2004 of this very Bench. These are reproduced below -

"The case of the applicants is that they had been working as casual worker and they have worked for more than 240 days so they are entitled to be regularized. They are also stated to have made a representation but no order has been passed on the same. It is further stated that Government of India, Department of Personnel & Training, had issued an O.M. Dated 6.6.1988 in which the scheme for Regularization of casual labourers has been framed and instructions have been issued to regularise the casual labourers. The learned counsel for the applicant has also referred to various judgements and submitted that in view of these judgements, the applicants are also entitled to be regularised.

4. One such judgment is by Punjab & Haryana High Court in the case of Nirpinder Singh & Others Vs. The State of Punjab & Others. Reported in 2004 (1) ATJ, Page 610 wherein the petitioners were working on daily wage basis as Pump Operators and they had completed for more than 10 years and salary was being paid to them at the end of the month and availability of work was also not denied but Regularization was not made. Respondents denied Regularization on the ground that department had not obtained sanction for the additional posts. Such stand was held to be not justified. A direction was given to the respondents to consider the petitioners therein for Regularization. As far as this judgment is concerned, from its reading, it is clear that the Court has specifically referred to a judgment of the Hon'ble Supreme Court of India in the case of State of Orissa Vs. Balram Sahu, 2002 (4) SCT, 902 and another judgment in the case of State of Haryana Vs. Jasmer Singh, 1997 (2) SCT, 151. The claim for grant of pay scale had been rejected relying upon these judgements but a direction was given to the respondents to consider the claim of the applicants for Regularization of their services within a period of three months. The applicant has referred to another judgment of the Hon'ble Supreme Court of India in the case of Railway Parcel & Goods Handling Mazdoor Union & Others 2004 SCC (L&S) Page 114. In that case the petitioner were working as Porters on various Railway Stations and directions were given that all those porters / workers who had been initially engaged through Co-operative Societies but have been continuously working in the Railways for



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more than 10 years or more on different assignments shall be regularized and absorbed by the railways subject to being found medically fit and being below the age of superannuation.

5. Counsel for the applicant has further referred to another judgment of the Rajasthan High Court in the case of State of Rajasthan & Another Vs. Suresh Chandra & Another, 2003 (3) Western Law Cases, Page 1. The head note being relevant is reproduced as under :

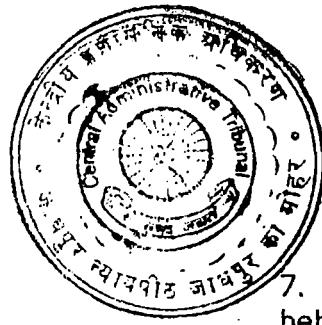
"Rajasthan Subordinate Offices Ministerial Staff rules, 1957, R. 10 (As amended by Notification of 12.10.1992)-  
- Scope - Regularization of Service - Petitioners appointed LDCs on ad hoc or daily wage basis during 1.1.1985 to 31.3.1990 and still working as such - No mention in appointment letter as to appointment being on contract basis - Subsequent contract if any must be held to be sham or camouflage - Point of appointment on contract basis not even raised before Single Judge - Petitioners continuing in employment for last more than 12 years - 15 vacancies available - Case of petitioners fully covered by amended Rules - Petitioner's rightly held entitled to status of regular employees subject to conditions of amended Rule."

6. On the contrary, learned counsel for the respondents submitted that there is no case for regularization of the applicants' services as the work available with the respondents is that of casual nature and cannot be said to be of perennial nature. Besides, there is no scheme or service rules under which the services of the applicants can be regularized. The applicants themselves have relied upon OM dated 6<sup>th</sup> June 1988, para (x) of which being relevant is reproduced as under :-

"(x) The Regularization of the services of the casual workers will continue to be governed by the instructions issued by this Department in this regard. While considering such Regularization, a casual worker may be given relaxation in the upper age limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age limit for the relevant post".

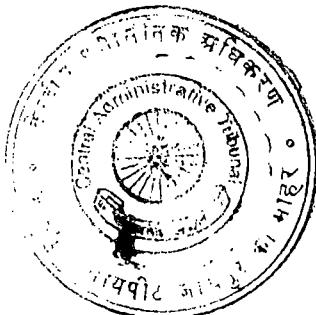
7. I have considered the rival contentions raised on behalf of both the sides and gone through the documents on record.

8. In this regard I may say that the judgements cited by the learned counsel for the applicant cannot be applied to the present facts of the case because in the case of Nirpinder Singh & Others (supra), the respondents therein were directed to consider the claim of the petitioners for regularization but that consideration had to be done in accordance with the rules or under some



scheme. If there is no scheme or rules for Regularization of services of the casual labourers, as is the position obtaining in this O.A., the department cannot be forced to regularise the services of the casual labourers. In that very case the applicants had claimed minimum of the pay scale as per the Scheme dated 10.1.1993 of the DOPT but since it had already been held that Scheme was one time and not continuous one, the Hon'ble High Court of Punjab & Haryana rejected the claim. The Scheme of 10.1.1993 further envisages as to how, after the grant of temporary status, the casual labourers are to be regularized. But since the Temporary status and Regularization scheme was only one time, benefit of it cannot be extended to the applicants who were appointed much after the cut off date fixed in the Scheme making the same inapplicable to the applicants. In so far as para 10 of the Scheme dated 6.6.1988 (Annexure A-1) is concerned, this also postulates that while considering the claim of Regularization, the casual workers may be given relaxation in upper age limit only. Otherwise, the Regularization is to be done as per the existing scheme and instructions or under the recruitment rules and not otherwise. As regards the

**Railway Parcel & Goods Handling Mazdoor Union & Others** (supra) is concerned, the Railways have their own scheme to regularise the casual employees whereas in the department in which the applicants are working, no such scheme has been brought to our notice nor it is shown that any such scheme is in operation in the department. So, that judgment also does not help the applicants. As regards the judgment in the case of **Suresh Chandra & Another** (supra) in that case the Court itself had found that case of the employees therein was found to be fully covered by the amended rules and it was held that the petitioners were entitled to the status of the regular employees subject to the fulfilment of the amended rules of that department but no such rules which may be available and applicable in the department of the present respondents have been shown to us under which the present applicants can claim Regularization of their services. The other judgment cited by the counsel for the applicant is **R.K. Panda & Others Vs. Steel Authority of India & Others**, (1994) SCC, 304 wherein the applicant had approached the court under the Labour Laws and under the provisions of the Industrial Disputes Act of 1947, the pay scale was claimed whereas no such law can be invoked in the case of the applicants as the dispute is not covered under the Industrial Disputes Act. Same is the position of judgment in the case of **Bhagwati Prasad Vs. Delhi State Mineral Development Corporation**, (1990) 1 SCC, 361. In that case also the claim was lodged and adjudicated upon under the Labour Laws. The last judgment cited by the applicant is in the case of **Jacob M. Puthuparambil & Ors. Vs. Kerala Water authority & Others**, (1991) 1 SCC, Page 28, wherein directions were given to the Kerala Water Authority that the services of the workers employed between the April 1, 1984 being the date of establishment of Kerala Water and Waste Water authority and August 4, 1986, be regularized with



immediate effect if they possess the requisite qualifications. The services of the workers appointed after August 1986 and who possess the requisite qualifications, should be regulated in accordance of the Act of 1970 provided they have put in more than one years service etc. Therein also the services of the applicants were directed to be regularized under a particular statutes. So the ratio of this judgment makes it clear that this Court can direct Regularization of services of casual employees only under some existing scheme for Regularization or under the recruitment rules or under a particular statutes which gives a right to such like employees for their services being considered for regularization. In this case the learned counsel for the applicant was unable to show any scheme which may be applicable to the applicants under which they may have a right of consideration of Regularization of their services or any recruitment rules or statutory provision under which the applicants have a right to Regularization of their services. So, I find that the applicants have no case for Regularization of their services merely because they have been working as casual employees for quite long time as their regularization cannot be done unless there is a scheme, rule or instruction for the purpose. In view of the above discussions, the O.A. is found to be devoid of any merits and is liable to be dismissed. Accordingly, I dismiss the O.A. However, before parting with the judgment I further direct that in case the nature of the work, which the applicants are performing, continuous to remain available with the respondents then their services shall not be terminated. O.A. stands dismissed, but with the above observations. No costs."



17. From the above following emerged :-

(i) In all the seven O.As, the applicants have been engaged as Casual Labour. In case of Shri Prem Bahadur, Narain Das and Girendra Singh, their initial engagement was in the year 1991/1992 while for Shri Udal Singh and Shri Narain Singh, their initial engagement was in 1996, for Shri Bhanu Pratap, his initial engagement was in 1998 and in respect of rest of the applicants, their initial engagement were in 2004.

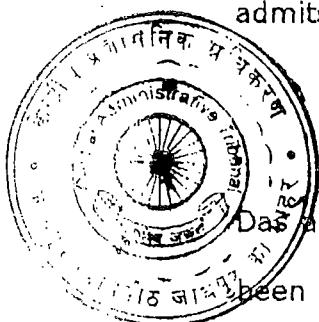
(ii) All these persons were engaged as Casual Labour in different Units of Army without issue of any formal appointment letter. They were on daily wages and continued to work till they were

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discontinued. Their discontinuation was perhaps communicated verbally and once dis-continued, none of these applicants were re-engaged.

(iii) In the case of Bhanu Pratap, the learned counsel for the applicants mentioned that he continues in service even now, I am not convinced by this statement after seeing the details submitted by the learned counsel for the respondents giving month by month employment of Shri Bhanu Pratap, this is being taken on record. This statement dated 29.8.2004, is signed by one Shri D.V. Bhaskar, Major, 2IC For C.O. which clearly brings out that Bhanu Pratap was not employed from February 2004 onwards.

In all other cases, learned counsel for the applicants himself admits that they are not on roll now having been discontinued earlier.



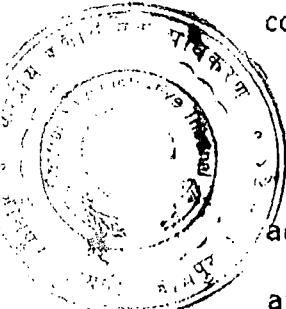
(iv) The three applicants viz. S/Shri Prem Bahadur, Narain Das and Girendra Singh, were engaged prior to 1993, they could have been regularised as per the one time scheme for Grant of Temporary Status and Regularisation for Casual Workers issued in the year 1993, provided they fulfilled all other conditions at that point of time. Since, this is not a issue in any of the O.As, I am not discussing further on the matter of applicability of the Scheme of 1993 for these three applicants.

(v) It is quite clear from all the records that all these applicants were engaged without following the procedure for recruitment of a regular employee.

(vi) In all these OAs, applicants are looking forward for a direction of reinstatement followed by regularisation.

18. The Constitution Bench decision of Apex Court in **Secretary, State of Karnataka and Others Vs. Uma Devi and Others**, had given guidelines on the matter of absorption regularisation, or permanent continuance of temporary, contractual, casual, daily-wage or ad hoc employees appointed / recruited and continued for long in public employment debars the constitutional scheme of public employment.

19. The Apex Court's guidelines are quite clear. A person who gets employed, without the following of a regular procedure or even through the backdoor or on daily wages, and merely because he is continued for a long time, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance.

  
It is also brought out by the Apex Court that the person who accepts an engagement either temporary or casual in nature, is aware of the nature of his employment. He accepts the employment with open eyes.

20. In all these O.As, the applicants were engaged as Casual Labour without following the rules for regular employment and later discontinued. In their cases, the relief sought is first reinstatement followed by regularisation in some way or other.

21. In the light of the decision of the Apex Court in **Uma Devi's** case (supra) no direction can be issued for re - reinstatement / regularisation of the applicants in these O.As. The O.As are accordingly dismissed.

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22. However, before parting with the judgement, it is directed that in case nature of work which the applicants' were performing at the time of their dis- engagement, continues to remain available with the respondent - department, then, their reengagement as per rules and regularisation in force could be considered by the respondents.



All these OAs stands dismissed with the above order. No

Sd/-  
[R.R.Bhandari]  
Member [A]

**CERTIFIED TRUE COPY**

Dated ..... 23.10.2005

अनुसन्धान अधिकारी (स्नाय.)  
Section Officer (SAC)  
केन्द्रीय अधिकारी अधिकारी  
Central Administrative Tribunal  
जोधपुर बैचन्स बिल्डिंग  
Jodhpur Bench Jodhpur.

Jrm

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