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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR

Original Application No. 71/2005

Date of decision: 15.09.2006

HON'BLE MR. J K KAUSHIK JUDICIAL MEMBER.
HON'BLE MR. J P SHUKLA, ADMINISTRATIVE MEMBER.

1. Arid Zone employees Union (AITUC) Out Side Sojati Gate, Jodhpur, through its Secretary, Shri A.W Ansari, son of Shri Abdual Rehman, aged 53 years, Out side Sojati Gate, Jodhpur.
2. Chattar Singh, Son of Shri Kumbh Singh, aged 40 years, Mazdoor in farmhouse, Central Arid Zone Research Institute, Jodhpur.

: Applicants.

Rep. By Mr. Vijay Mehta: Counsel for the applicant.

VERSUS

1. Indian Council of Agricultural Research, Krishi Bhawan, New Delhi through its Secretary.
2. Director Central Arid Zone Research Institute, Jodhpur.

: Respondents.

Rep. By Mr. V.S. Gurjar: Counsel for the respondents.

ORDER

PER MR. J K KAUSHIK, JUDICIAL MEMBER.

This Original Application has been preferred by Arid Zone Employees Union, Jodhpur, along with one affected member as applicant No. 2, under sec. 19 of the Administrative Tribunals Act, 1985 and the following relief has been sought.

" That from the facts and grounds mentioned herein above the applicants pray that Annex. A/1 and orders mentioned therein may kindly be quashed the respondents be directed to continue deductions from the listed employees towards GPF. The respondents may kindly be restrained from treating the listed employees to be covered by order Annex. A/1, Annex. A/9 and Annex. A/10. Any other order giving relief may also be passed. Costs may also be awarded to the applicants."



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2. We have heard the learned counsel representing both the parties at a considerable length and carefully perused the pleadings and records of this case.

3. The abridged material facts as delineated from the pleadings of both the parties indicate that all the members of the applicant union were initially engaged as Casual Labourer during 1965 and onwards. An award came to be passed in their favour by the Labour Court, Jodhpur on 29.04.89, directing the respondents to regularize the services of 268 casual labourers who were appointed between 1965 and 1983 and had completed two years of service. There was also a direction to frame a scheme for regularisation and the award was to be executed by creating posts within a period of six months. There were certain other benefits also which were directed to be granted to the casual labourers. The same came to be challenged before the Hon'ble High Court of Rajasthan, by filing a Writ Petition, which came to be dismissed on 13.05.1997. A Division Bench special appeal was met with the same fate and was dismissed on 17.04.2000. Similarly the SLP filed by the respondents came to be dismissed on 18.08.2004 by the Apex Court. Certain other subsequent proceedings have also been taken. It is also averred that the respondents did not pass any specific written order regarding the implementation of the award. The applicants are deemed to have become permanent and regularized long before the cut off dated of 1.1.2004. Since they were appointed long before 01.01.2004, the orders at Annex. A/1, A/9 to A/11 are not applicable to them. The respondents have taken contradictory stand in as much as they called the applicants as 'temporary status



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employees' and some times it is stated that the award has been implemented and employees have been regularized. Despite this the respondents are bent upon to stop the deduction towards GPF in respect of the applicants.

4. In the reply to the O.A it has been mentioned that the workers were accorded minimum of the regular pay scale in compliance of the award and they were also conferred with temporary status on completion of two years service from the date of their initial engagement. It is further stated that some of them left the work and some of them died. Majority of them have been regularized on the Group D posts as and when posts became available. Also a decision was taken to adopt the Department of Personnel Scheme dated 10.09.1993 (sic 1.9.1993) for grant of temporary status and regularisation and the benefits of the scheme were extended to the casual labourers. Certain other details have been given. It is also submitted that GPF amount was being deducted from September 1996 and earlier to this date E.P.F. contributions were deducted and the employer's share towards the same for the period from March 1982 to August 1992, had been deposited with the EPF authorities.

5. The learned counsel for the applicant has reiterated the facts and grounds raised in pleadings made on behalf of the applicants. He made us to traverse through various documents including the orders under challenge. He has tried to demonstrate that each letter/order contains the words 'that the same would apply in respect of persons who are appointed to Central Government service on or after 01.01.2004'. Since the applicants are appointed prior to the said cut



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off date, the same would obviously be not applicable to them. He has drawn our attention to one of the very recent orders of this Bench of the Tribunal in the case of **Rana Ram vs. ICAR and Anr.** [O.A. No. 261/2005 decided on 27.01.2006] to which one of us (J K Kaushik) was a party and submitted that in similar circumstances employees have been treated as regular from 29.10.1989 in terms of the award of the Labour Court (supra) and therefore the issue does not remain res integra. He then submitted that since the applicants are otherwise employed on regular basis prior to 01.01.2004, there is no question of applying any rule, which is effective from 01.01.2004. Thus in view of the fact that the applicants were appointed much earlier to the said cut off date, he emphasized that the subsequent scheme dated 10.09.93 has absolutely no application to the instant case. It is also contended by him that the respondents have miserably failed to substantiate their stand that any benefits under the scheme of 1993 were granted to the applicants in particular and other similarly situated employees in general in as much as no specific order has been passed to this effect by the respondents and very averment is false and deceptive. He also cited a judgement of Hon'ble High Court of Rajasthan in case of **Chandra Mohan Singh Vs. State of Rajasthan** 2004 LAB I C page 2544, in support of his contentions.



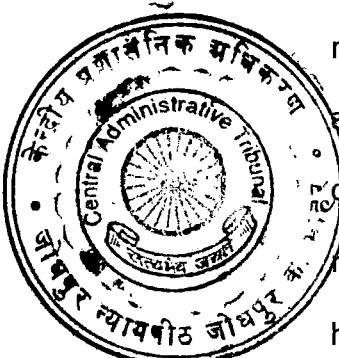
6. Per contra, the learned counsel for the respondents has reiterated the defence as set out in the reply and has also drawn our attention to various portions of the impugned orders. He has laid great stress and submitted that it was not possible to regularize all the 268 persons since out of every 3 vacancies only two could be filled by

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regularizing the casual labourers and they had to be regularized in a phased manner as per the scheme of 1993.

7. We have considered the rival submissions put forth on behalf of both the parties. As far as the factual aspect of the matter is concerned the position is as noticed above. It is a fact that the respondents have not passed any specific order in implementation of the aforesaid award or in pursuance with the Scheme of 1993. However, elaborate discussions have been held in regard to the status of the members of the applicant union in particular and other similarly situated persons in general, in the case of **Rana Ram** (supra). It has been categorically held in para 9 of the same that the applicant therein in particular and other similarly situated persons in general would be treated as regular from 29.10.89 in terms of the award of the Labour Court. Therefore the applicants are admittedly regular employees from a much earlier date than 01.01.2004 and the deductions towards GPF shall have to be continued. In other words, Annex. A/1, A/9, A/10 and A/11 have got no application to their case and therefore the O.A deserves to be accepted on this ground alone. Nevertheless, looking into the matter from yet another angle, we find that the deductions towards GPF were being made in respect of the applicants from a much earlier date than the cut off date of 01.01.2004. The applicants are not definitely appointed on or after 01.01.2004. The judgement in case of **Chandra Mohan Singh**, supra cited on behalf of applicant relate to an enactment from retrospective date, which is not the case here. All the impugned orders are from a prospective date only; hence the same does not apply to the controversy involved here.



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8. The upshot of the aforesaid discussion is we reach to an inescapable conclusion that there is ample force in this O.A and the same deserves to be accepted and stands allowed. Accordingly, the respondents are directed to continue to make the deductions towards GPF from the salaries of the members of the applicant union in particular and other similarly situated employees in general as was being done earlier to the issuance of Annex. 1 letter/order dated 21.02.2005. The rule issued earlier is made absolute. However, the parties are directed to bear their own costs.



J P Shukla
(J P SHUKLA)
ADMINISTRATIVE MEMBER

J K Kaushik
(J K KAUSHIK)
JUDICIAL MEMBER.

Jsv.