के.प्र.अ. (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत निः शुल्क प्र.ि०

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR

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1. Original Application No. 142/2010

Date of decision: November 19th, 2010

CORAM : HON'BLE MR. SUDHIR KUMAR, MEMBER (A)

1. Om Prakash son of Sh. Bodhu Ram at present employed as TSW, in the Office of Director CCBF, Suratgarh, Distt. Sriganganagar.
2. Jangal Bhagat son of late Shri Mati Bhagat, at present employed as TSW in the O/o Director CCBF, Suratgarh, Distt Sriganganagar.
3. Smt. Nanu Devi wife of Sh. Chusa Ram, , at present employed as TSW in the O/o Director CCBF, Suratgarh, Distt Sriganganagar.
4. Smt. Simro Devi w/o Sh. Ram Pal, , at present employed as TSW in the O/o Director CCBF, Suratgarh, Distt Sriganganagar.
5. Smt. Gheesan Devi w/o Sh. Charan Das, , at present employed as TSW in the O/o Director CCBF, Suratgarh, Distt Sriganganagar.

(Resident of CCBF Campus, Suratgarh, PO Bhagwansar, Distt. Sriganganagar).

..... Applicants.

Rep. By Mr. J.K. Mishra, Counsel for the applicant.

Versus

1. Union of India through Secretary to Govt. of India, Ministry of Agriculture, Krishi Bhawan, New Delhi.

2. The Director, Central Cattle Breeding Farm Suratgarh, Distt. Sriganganagar.

COMPARED & CHECKED

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.....Respondents.

Rep. By Mr. M. Godara proxy counsel for Mr. Vinit Mathur, Counsel for the respondents.

2. Original Application No. 143/2010

1. Naggu Ram s/o Sh. Jagroop, at present employed as TSW, in the O/o Director CCBF, Suratgarh, Distt Sriganganagar.
2. Ramasaraya Pal s/o Sh. Mishsri Lal Pal, at present employed as TSW in the O/o Director CCBF, Suratgarh, Distt Sriganganagar.
3. Smt. Sampati Devi w/o Satyanarayan, at present employed as TSW in the O/o Director CCBF, Suratgarh, Distt Sriganganagar.
4. Smt. Prem Devi w/o Sh. Madan Lal, at present employed as TSW in the O/o Director CCBF, Suratgarh, Distt Sriganganagar.
5. Smt. Prabhati Devi, w/o Sh. Bhanwar Lal, at present employed as TSW in the O/o Director CCBF, Suratgarh, Distt Sriganganagar.

(Resident of CCBF Campus, Suratgarh, PO Bhagwansar, Distt. Sriganganagar).

..... Applicants.

Rep. By Mr. J.K. Mishra, Counsel for the applicants.

Versus

1. Union of India through Secretary to Govt. of India, Ministry of Agriculture, Krishi Bhawan, New Delhi.
2. The Director, Central Cattle Breeding Farm Suratgarh, Distt. Sriganganagar.

.....Respondents.

Rep. By Mr. M. Godara proxy counsel for Mr. Vinit Mathur, Counsel for the respondents.

ORDER

Per Mr. Sudhir Kumar, Member (A)

Original Application No. 142/2010 has been filed before this Tribunal by 5 applicants together, seeking directions upon the

respondents for considering their case for regularization on the Group-'D' posts as per the verdict of the Hon'ble Apex Court in the case of Secretary, State of Karnataka Vs. Uma Devi, and to carry out a fresh review of Group-D requirement/create requisite number of Group-D posts under the organization headed by Respondent no.2.

2. The applicants of this O.A. had been originally engaged as casual labourers, and they had been granted Temporary Status in accordance with the guidelines for recruitment of casual labour dated 7.6.1988 and Casual Labour (Grant of Temporary Status and Regularization) Scheme of Government of India dated 1.9.1993. They were paid wages on the basis 8 hours' working a day, and as Temporary Status workers, they were entitled to certain specified benefits. Some of the similarly placed workers invoked the jurisdiction of this Tribunal by filing an O.A. No. 76/2000 titled Jokhan Prasad & Ors. Vs. Union of India and Ors., reported in ATJ 2002(1) 466, in which a direction was issued to the respondents to create requisite number of Group-D posts, and consider their regularization vide order dated 5.2.2002 (Annexure A/3), and directing the respondents to consider the cases of the applicants after reviewing their requirement of Group-D staff. The respondents had challenged that order before the Hon'ble High Court of Rajasthan, in which vide order dated 25.7.2002 the orders of the Tribunal were upheld. Thereafter, the respondents passed an order dated 26.9.2002, determining that the work load in the Farm has decreased, and that there was no justification for creation of Group-

D posts. A Contempt Petition No. 22/2003 titled Shiv Bachan Bhagat Vs. Smt. Venu Sen and Anrs., therefore came to be filed before this Tribunal, which also was dismissed on 19.2.2004, with the observation that the order dated 26.9.2002 affords a new cause of action to the applicants of that case, and did not amount to a contempt of this Tribunal.

3. The applicants have pleaded that their case has been strengthened by the decision of the Hon'ble Supreme Court in the case of Secretary, State of Karnataka & Ors. Vs. Umadevi (2006)4 SCC 1:2006 SCC (L&S) 753, and they therefore prayed before this Tribunal once again that the respondent authorities had allegedly not carried out a review of staff strength for suite some time, to determine the deficiency in the requirement of posts in Group-D cadre. They, therefore, sought a direction upon the respondents to review the staff strength, and for creation of Group-D posts, in order to consider the case of the applicants for their regularization.

4. In their reply statement the respondents denied the contentions of the applicants, and submitted that as the cultivated land as well as the strength of the animals on the respondents' farm had got reduced quite considerably, the Expert Committee under the Chairmanship of the Joint Secretary of the Ministry constituted for the purpose of review of staff strength has come to the conclusion that there is no requirement of further adding any Group-D staff strength, as the present Group-D staff strength is itself in excess. They pointed out that 120 acres land had been transferred from the farm, and the animals' strength as on 31.3.10

had gone down to only 383 . Submitting a detailed reply to the grounds pleaded by the applicants, and putting up a stout defence of their case, the respondents prayed for the O.A. to be dismissed, as the applicants are not entitled to any relief from this Tribunal.

5. The case of the applicants in O.A. No. 143/2010 is also similar, with the only difference being in respect of dates or years of their engagement, and their O.A. was also similar to the O.A. filed by the applicants of 142/2010.

6. The reply written statement of the respondents in this O.A. 143/2010 was also similar to that in O.A. No. 142/2010, and hence the detailed pleadings need not be repeated.

7. The similar issue of reduction of number of animals and reduction of land available with the farm reducing the requirement of Group-D staff for being engaged for the farm had been taken in the written statement also, and this stand had been buttressed by the minutes of the Expert Committee meeting held on 28.8.2002 under the Chairmanship of the Joint Secretary of Ministry to determine the staff strength of the farm, which had refused to recommend creation of any further Group-D posts at the farm headed by respondent no.2, in addition to the existing strength.

8. During the course of the arguments, it was conceded by the learned counsel for the applicants that the contention of the learned counsel for the respondents that these two cases are squarely covered by the order of this Tribunal dated 01.10.2010 titled Joginder Shah Vs. Union of India & Ors., and 10 others cases.

9. On a perusal of the order of the concurrent Bench of this Tribunal dated 01.10.2010 in the above 11 batch cases, it is seen that the respective contentions of the applicants of both these O.As as well as of the respondents have been fully taken care of by that order, and that there can be no occasion whatsoever for this Bench to differ or disagree with the orders of the concurrent Bench in those 11 batch cases pronounced on 01.10.2010.

10. In the case of Commissioner, Corporation of Madras Vs. Madras Corporation Teachers Mandram (1997) 1 SCC 253 the Hon'ble Supreme Court held that the Courts cannot direct the Government to create posts or change policy. In another case Union of India Vs. T.P. Bombhate (1991) 3 SCC 11 the Hon'ble Apex Court held that Courts and Tribunal cannot compel the Government to change its policy which involves financial burden on it. The Apex Court has further held in State of U.P. Vs. Ajay Kumar (1997) 4 SCC 88 that there must exist a post, and either administrative instructions or statutory rules must be in operation to appoint a person to the post working on daily basis, otherwise, the Courts cannot direct for regularization of service of an applicant. Even in the Judgment cited by the applicants in the case of Secretary, State of Karnataka & Ors. Vs. Umadevi (Supra), the ratio of that landmark judgment of the Constitution Bench does not support the case of the applicants, but rather supports the case of the respondents.

11. In view of these submissions of the applicants and the respondents, and the already existing orders dated 01.10.2010 of the concurrent Bench of this Tribunal, I respectfully agree with the

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orders of the Concurrent Bench dated 01.10.2010. These two O.As are therefore dismissed. However, there shall be no order as to costs.

Sd/-

(SUDHIR KUMAR)
MEMBER(A)

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CERTIFIED TRUE COPY
Dated 23-11-10

अनुभाग अधिकारी (न्यायि.)
Section Officer (Judl.)
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
जोधपुर न्यायपीठ, जोधपुर
Jodhpur Bench, Jodhpur

दिनांक 17/11/16 के आदेशानुसार
मेरी उपस्थिति में दिनांक 17/11/16
को भाग-II व III नष्ट किए गए ।

अनुभाग अधिकारी
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर न्यायपीठ, जोधपुर