

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

Original Application No. 493/2012

Jodhpur, this the 18<sup>th</sup> May, 2015

**CORAM**

## **Hon'ble Ms. Meenakshi Hooja, Administrative Member**

1. Arid Zone Employees Union (AITUC), out side Sojati Gate, Jodhpur through its Secretary Shri A.W. Ansari s/o Shri Abdul Rehman, aged 60 years, r/o outside Sojati Gate, Jodhpur
2. Chattar Singh s/o Shri Kumbh Singh, aged 46 years supporting Staff in the Central Arid Zone Research Institute, Jodhpur r/o 549, Subhash Nagar-II, Jodhpur.

.....Applicants

By Advocate: Mr. Vijay Mehta

## Versus

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

### .....Respondents

By Advocate : Mr.A.K.Chhangani

## **ORDER (ORAL)**

In this OA, the applicants have prayed for pursing the OA jointly and also that the action of the respondents for effecting recovery from the salary, pension, gratuity and other retiral benefits or from any other amount may kindly be quashed. It is

effecting recovery from the salary, pension or from any other amount from the 268 employees and also seeks direction to return back the money with interest at the rate of 24% to the employees from whom such recovery has been made and immediately make payment of pension and retiral benefits.

2. So far as prayer regarding filing joint OA is concerned, the applicants are permitted to file joint OA and pursue their remedy jointly.

3. Short facts of the case, as averred by the applicants, are that applicant No.1 i.e. Arid Zone Employees Union is an association of employees working in Central Arid Zone Research Institute, Jodhpur and applicant No.2 is presently working on the post of Supporting Staff in the respondent department. The Arid Zone Employees Union raised an industrial dispute for regularization of Casual Labours and the Labour Court, vide its award dated 29.4.1989 passed in case No.16/86, directed the respondents to regularise the services of all those casual labours listed in the appended list who have completed two years services, and the respondents were given six months time to frame a scheme and complete this exercise. The award has been upheld by the Hon'ble Rajasthan High Court and Hon'ble Supreme Court. Thereafter this Tribunal after referring to award and number of

passed in OA no.212/2006 declared that the said 268 casual labours became regular and permanent from 29.10.1989 in terms of the award. Applicant No.2 had filed OA No.188/2006 and vide order dated 21.11.2008 this Tribunal declared the applicant No.2 as permanent and regular employee for all purposes, which has been upheld by the Hon'ble Rajasthan High Court and Supreme Court. The respondents thereafter passed order on 15.2.2010 in compliance to the above order and granted temporary status as regular employee w.e.f. 29.10.1989. The applicants have stated that while the casual labour remained casual labour, they were covered by the EPF Scheme and on being covered by the GPF Scheme and in some cases by the CCS (Pension) Rules, the Employees Provident Commissioner Organization returned the entire EPF contribution of the employees to respondent No.2 by several letters in the year 1997. On receiving the EPF amount by respondents No.2, the amount was paid to the concerned employee in the year 1997. The respondents No.2 is now pressing hard for effecting recovery to the alleged share of EPF which was paid to the employees in the year 1997 with interest, although they do not possess details about the amount of share of the respondents paid to the employees. The applicant union vide application dated 3.11.2012 requested the Employees Provident Commissioner Organization to supply the details of the employers.

information has not been supplied. The applicants have further averred that the action of the respondents is illegal and is against the principles of natural justice and the Union has been regularly pursuing the case of these employees, however, the respondents are bent upon to recover the amount from the employees who are in service and are not issuing PPOs for pension and are not paying gratuity and other retiral benefit to the employees, who have been retired. Therefore, the applicants have filed this OA praying to declare the action of the respondents as illegal.

4. The respondents have taken preliminary objection about the Arid Zone Employees Union, applicant No.1 and applicant No.2. In reply to the OA, the respondents have submitted that the applicants have not provided the present legal status of the Union. In reply to para 4.1 it is submitted that this para lacks the necessary details and particulars of the employees and no legal right has been made out in favour of the applicants as violation of any particular law has not been complained and pleaded in this para. The respondents have further submitted that the applicants have further failed to point out as to how the regular employees are governed by the applicant No.1 Union. The respondents have further submitted that at the time when the Contempt Petition was dismissed by this Tribunal the applicants had felt satisfied and it is clearly observed by this Tribunal that substantial compliance has

already been made and accordingly the Contempt Petition was dismissed. However, it was left open to the employees that if they had some grievance, then in their individual capacity they can approach the competent authority, but none of the employees gave any representation after decision on the Contempt Petition in their individual capacity. The respondents have further submitted that services of all eligible labours/workers were regularized and they ceased to be member of the Union and they became members of regular category i.e. the Institute Joint Staff Council a body created by the ICAR for redressal of the service grievances of its employees. According to the respondents, when these workers were regularized they became the members of the GPF scheme and ceased to be the members of the EPF and accordingly the Employees Provident Fund Commissioner returned the entire EPF contribution. As per the undertaking given, the workers (now employees) were required to allow the respondents their share of EPF contribution because on being regularized they have become the member of the GPF scheme and no employee can taken benefit of EPF scheme as well as GPF scheme. Therefore, the respondents were duty bound to recover the Government dues and the applicants are not entitled to any relief.

5. By filing rejoinder to the reply, the applicants have reiterated the averment made in the OA.
6. Heard both the parties. Counsel for the applicants submitted that earlier this matter has been heard in part by the Division Bench as per order sheet dated 11.04.2014 and, therefore, the matter may be heard by the Division Bench. In this context, counsel for the respondents contended that the matter pertains to Single Bench and thereafter the counsel for the applicants agreed that the subject matter of this case pertains to jurisdiction of Single Bench and may be heard accordingly.
7. During the course of hearing, the counsel for the respondents submitted that the respondent department is ready to hear the grievances of the applicants and decide the same within the shortest possible time while treating the entire OA including the rejoinder as an additional representation on behalf [REDACTED] of the applicants.
8. In this context, counsel for the applicants submits that the applicants may be given due opportunity of hearing and the respondents may be directed to decide the matter within the earliest possible time.
9. In view of the submissions and contentions made hereinabove and without going into the merits and details of the

(i) The respondents are directed to provide opportunity of hearing to the applicants with regard to their grievances and further the respondents are directed to treat the OA and rejoinder as an additional representation filed on behalf of the applicants and decide the same at the earliest but within four months from the date of receipt of a copy of this order.

(ii) Further, till the decision by the respondents in the case, the modified interim directions of this Tribunal dated 26<sup>th</sup> March, 2013 that the respondents shall not realize the EPF dues as determined, from the 268 persons named in Annexure-A/3 shall remain in operation.

The OA is thus disposed of as stated above with no order as to costs.

  
[Meenakshi Hooja]  
Administrative Member

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