

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.586/2003

This the ^{4th} day of ^{December} ~~October~~ 2008

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

1. Pyare Lal aged about 31 years S/o Sri Chandrika Prasad R/o Village Damaria Post Office Chinhath Lucknow.
2. Santosh Kumar aged about 32 years S/o Sri Deena Nath, R/o Village Malhaur Post Office Chinhath Lucknow.
3. Amber Singh aged about 36 years S/o Sri Chhotey Lal R/o Village Malhaur, Post Office Chinhath Lucknow.
4. Puran Lal aged about 48 years S/o Sri Hardwari R/o Village Semra, Post Office Chinhath Lucknow.
5. Mahesh aged about 36 years S/o Sri Durga Prasad R/o Vill Damaria P.O. Chinhath Lucknow.
6. Lavkush Sharma aged about 35 years Sri Raghuveer Prasad Sharma R/o Village Malhaur P.O. Chinhath Lucknow.
7. Jagdish Prasad aged about 34 years S/o Sri Ishwari Lal R/o Village Semra Post Office Chinhath Lucknow.

...Applicant.

By Advocate: Shri Amit Verma for Shri A. Moin.

Versus.

1. Indian Council of Agricultural Research Krishi Bhawan New Delhi through Chairman.
2. Centre for Inland Fisheries Operatives Training, India Council of Agricultural Research Kathota Tal, P.O. Chinhath Lucknow through its scientist In charge.

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3. Director, ICAR, Central Institute of Fisheries, Education University Road, Mumbai.
4. Director, National Bureau of Fish Genetic Research, Telibagh, Lucknow.

... Respondents.

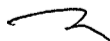
By Advocate: Shri V.R. Chaube for Shri Sunil Sharma.

ORDER

BY MR. M. KANTHAIHAH, MEMBER JUDICIAL.

The applicants no. 1 to 7 have filed this OA, with a prayer to quash the impugned order Dt. 02.08.2003 (Ann.A-1) passed by Respondent No.2 and for grant of temporary status and regularization of service in pursuance of Scheme of Govt. of India Dt. 10.09.1993 on the following grounds:-

- I. That they were not engaged through Employment Exchange is patently misconceived and in violation of the law laid down by the Hon'ble Apex Court.
 - II. The applicants who have been in employment on -1.09.1993 and having completed 206/240 days are preferably entitled for grant of appointment, temporary status and regularization.
 - III. They have spent, prime of their life serving under the respondents, and having become over aged for any other service.
2. The Respondent No. 1 to 3 have filed Counter Affidavit, denying the clam of the applicants stating that the authorities have taken decision in accordance with the terms and condition of



service of 1993 for grant of temporary status and thus justified, rejection order Dt. 02.08.2003 (Ann.-1).

3. After impleading, Respondent No.4 he filed separate Counter Affidavit, reiterating the stand taken by Respondents no. 1 to 3 and thus denied the claim of the applicant.

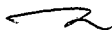
4. The applicants have filed Rejoinder Affidavit, denying the stand taken by the respondents and also reiterated the pleas of their OA.

5. Heard both the parties.

6 The point for consideration is whether the applicants are entitled for the relief as prayed for.

7. The admitted facts of the case are that the applicants worked under the respondents during the period from 1990 to 1993 with interrupted engagement which was temporary in nature. The applicants did not work there from 30.11.1993 onwards is also not in dispute. The Govt. of India framed a Scheme for regularization of the services of daily wagers for grant of temporary status and regularization etc. and the same is called "Casual Labourers Grant of Temporary Status & Regularization Scheme of Govt. of India, 1993" (Ann-A-3). For the sake of convenience the same is hereafter referred as Scheme of 1993. The benefit of the scheme would be conferred on all the casual workers who were in engagement on 01.09.1993.

The casual labourers who were in empanelment on 01.09.1993 and had completed 240 days from 11.09.1992 to



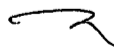
10.09.1993 with certain other conditions were eligible to get the benefits of the scheme of 1993.

8. Basing on their respective services rendered, all these applicants have filed O.A.No.287/1995, for issuance of direction to the respondents to allow the applicants to continue in service as Chowkidar and to regularize their services and pay them salary in the scale of Class-IV employee and the same was disposed of with a direction to the respondents to consider the case of the applicants in accordance with terms and conditions laid down in the scheme of 1993, after verifying the number of working days of each of the applicants. Ann-A-2 is the copy of order Dt. 07.02.2003 in O.A.No.287/1995. Subsequently, the applicants have filed C.C.P.No.45/2003 but the same was dismissed on 24.09.2003, in view of the order passed by respondents Dt. 02.08.1993 (Ann.1), by which they rejected the claim of the applicants, which is under challenge in this OA.

9. The respondents have rejected the claim of the applicants for grant of temporary status, by furnishing the following reasons in the impugned order (Ann.-1)

I. The applicants were not engaged through employment exchange.

II. The applicants were engaged on contract basis and not treated them as casual labourers, during the period of work.



III. The applicants were not on continuous service as on the cut off date of the respondents circular Dt. 30.05.2002 and other relevant circulars on the subject.

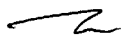
10. It is the case of the applicants, that they have fulfilled all the requirements as per the scheme of 1993, but the respondents have rejected their claim for grant of temporary status illegally and as such the following are the main points for consideration, for deciding the dispute between the parties.

I. Whether the applicants have fulfilled the requirement of the scheme of 1993, for grant of temporary status.

II. Whether the rejection of the claim of the applicants under impugned order (Ann-A-1) is illegal and against the scheme of 1993.

11. Point No. 1 and 2 are interconnected with each other and as such discussed in common. As per the scheme of 1993 (Ann-3) temporary status would be conferred on all casual labourers who are in employment on the date of issue of the O.M. i.e. 01.09.1993 and who have rendered a continuous service of at least one year i.e. 240 days (206 days in the case of offices observe 5 days a week).

12. In respect of the engagement of the applicants, the respondents have filed counter and also statement showing that the applicants 1,2,4 and 7 are in continuous service of more than required days of the service from 01.09.1992 to 10.09.1993, whereas the engagement of applicants no. 3,5 and 6, there was



no continuous service. But, it is also the case of the respondents that the services rendered by the applicants on contract basis, but not as casual labourers and the same is also not disputed by the applicants.

13. Further the applicants also pleaded that the scheme of 1993 is also applicable to contractual labourers and as such they are entitled for the relief under the scheme, as they have completed more than required days and further requirement of their engagement through employment is not required under the scheme.

14. From the scheme of 1993 (Ann.-A-3) and also subsequent O.Ms issued by D.O.P.T., it is clear that the scheme is applicable only to the casual labourers and there is no reference in respect of contractual labourers. It is also the case of the respondents that the applicants were engaged on contract basis for performing the work of temporary nature and they were paid the minimum wages as fixed by the State Govt. for actual number of days and thus furnished the number of working days of such contract basis. In the impugned order (Ann.-A-1) also they have stated that the applicants rendered service on contractual basis.

15. In such circumstances, when the applicants who rendered services on contractual basis, are not entitled for any benefit under scheme of 1993, since the same is applicable to casual labourers. Further any number of days that is more than 240 days in a year is also not at all helpful for the applicants, for claiming benefits

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under this scheme of 1993, which is meant for casual labourers. Thus, the applicants have failed to establish their claim under the scheme of 1993 and thus there are no merits in questioning the validity of impugned order (Ann.A-1) and as such OA is liable for dismissal.

In the result, OA is dismissed. No costs.


(M. KANTHAIYAH) 04.12.08
MEMBER (J)

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