

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 433/2008

This the 23rd day of April, 2010

Hon'ble Dr. A.K. Mishra, Member-A

Manjhoo Chauhan, Aged about 50 years, S/o late Ram Lal Chauhan, R/o Village Tapar Purwa, Post Office Pratappur, District Lakhimpur Kheri.

.....Applicant.

By Advocate: Sri R.L. Vishwakarma.

Versus

1. Union of India through its Secretary, Ministry of Agriculture, Krishi Bhawan, New Delhi.
2. Director, Central Cattle Breeding Farm, Andesh Nagar, Lakhimpur Kheri. U.P.

.....Respondents

By Advocate: Sri S.P. Singh

ORDER

The applicant has challenged the order dated 18.8.2008 which was passed by way of a compliance report on the directions of this Tribunal in its order dated 10.10.2003 in O.A. no. 564 of 2001. In addition to the prayer for quashing the impugned order dated 18.8.2008, the applicant has requested that he should be allowed to work as Tractor Driver on daily wage basis until his services are regularized and that he should be paid differential wages as is applicable to a Tractor driver engaged on daily wage basis for the period 1993-2000.

2. It is seen that he had made similar prayers in O.A. no. 564 of 2001. For better appreciation, the prayer made by him in the earlier O.A. is reproduced below:-

- (i) *The Hon'ble Tribunal may kindly be pleased to quash the impugned reversion order of direction as stated in para 4.5 of the application by way of which, the respondents have denied to applicant to work for the post of tractor driver by summoning the records.*
- (ii) *The Hon'ble Tribunal, may kindly be pleased to direct the respondents to pay the salary of Tractor Driver.*

- (iii) *The Hon'ble Tribunal, may kindly be pleased to direct the respondents to regularize the post of the Tractor Driver.*
- (iv) *Any other suitable order or orders deem fit and proper in the circumstances of the case, may also be passed in favour of the applicant....."*

3. This Tribunal directed him to make a representation about his engagement on daily wage basis and if after scrutiny of his representation, it was revealed that he had worked on the post of Tractor Driver after attaining temporary status, he should be paid salary meant for the post of Tractor Driver, if not already paid. If, however, the respondent-authority came to the conclusion that his representation did not deserve to be considered favourably, a reasoned and speaking order should be passed.

4. Since no order was passed by the respondent-authority on the directions of this Tribunal, a Contempt petition was filed and this Tribunal in its order dated 21.7.2008 in CCP no. 20 of 2004 in connection with O.A. no. 564 of 2001 held that the representation of the applicant dated 30.10.2004 should be considered by the respondent-authority. Subsequently, Contempt petition was dismissed after the impugned order of respondent no.2 was passed.

5. It is the case of the applicant that he has a valid license to operate a tractor and was being permitted to drive a tractor belonging to the respondent-authority as daily wage Driver, but since 2000, he had been taken off from the duties of Tractor driver and is being engaged as ordinary casual worker.

6. According to the respondents, the applicant was engaged as ordinary casual worker. He was granted temporary status as a casual worker w.e.f. 1.9.1993 and is being paid wages in consonance with his temporary status as a casual worker. He had not been appointed on any particular post of any classified group as a casual worker. He was allotted work meant for casual worker as per actual requirement on any particular day. Earlier, he had filed O.A. no. 161 of 1991 for payment of regular salary and other service benefits and the Tribunal in its order dated 19.11.992 directed the competent respondent authority to consider his case as and when vacancy arose in Group 'D'. He filed another O.A. (901/2003) claiming similar relief. This O.A. was dismissed as infructuous by this Tribunal in its order dated 10.5.2000. Bhartiya Khetihar Mazdoor Sangh to which the applicant

is affiliated as member filed O.A. no. 274 of 1999 in which it was claimed that the salary attached to Tractor Driver should be paid to those operating Tractors. It was again dismissed by this Tribunal on 11.10.2002 with the observation that none of the claimants were appointed on the post of Tractor Drivers, which is a class III post. On the other hand, some of the employees were allowed to drive tractors on their own request so that they could gain experience.

7. It is further claimed by the respondents that there were four sanctioned posts of Tractor Drivers and four regular employees were in position. There is no vacancy against which the applicant could be considered for appointment on the post of Tractor Driver. It is clearly stated by the respondent no.2 in the impugned order that the applicant had already been paid higher wages as and when he was engaged as Tractor Driver in past (para 4). The learned counsel for the respondents submits that the applicant has not given further details about the number of days when he worked as Tractor Driver in spite of the specific directions made by this Tribunal as is seen from the observations in the impugned order. His representation dated 30.10.2004 was only in the nature of a complaint letter, it does not reveal specific details about the number of days on which he worked as a Tractor Driver, nor has he given such details in this application. His prayer in this connection having been disposed of on merits on 10.10.2003 in O.A. no. 564 of 2001, the applicant is estopped from raising the same very issue again in this Application without discharging the responsibilities which were cast on him by this Tribunal. In view of the averment that the respondent authorities have paid him higher daily wage appropriate to the post of Tractor Driver on the days he was so engaged prior to 2000 and his own admission that he has not been engaged as Tractor Driver since 2000, there is no case for considering the same very prayer which was made by him earlier in 2001. I find that the prayer made by the applicant in O.A. no. 564 of 2001 is almost the same except that he has now challenged the order dated 18.8.2008 of respondent no.2, whereas earlier he had challenged his engagement as an ordinary casual worker. It is not disputed that he was engaged as casual worker and he has been given temporary status as a casual worker only. It is not his case that he had got temporary status as a Tractor Driver. However, in the absence of any vacant post of Tractor Driver, no direction could be given to the

respondent-authorities to consider the applicant for appointment as a Tractor Driver. Moreover, it is admitted by him that he is no longer working as Tractor Driver since 2000.

8. Application (O.A. no. 274/99) filed by his Union namely Bhartiya Khetihar Mazdoor Sangh & Others in which same prayer was made for payment of salary as applicable to the post of Tractor Driver and for regularization of such employees including the applicant as Tractor Driver was rejected. In the background of these cases, I find that the applicant has been agitating for the same issue off and on. Since he was given temporary status as casual worker and he has been getting the benefits under "Casual Labourers (Grant of Temporary status & Regularization) Scheme, 1993, he should seek regularization under that Scheme and the respondent-authorities should also consider his claim for regularization as Group 'D' employee in view of the fact he has been granted temporary status as far back on 1.1.1993.

9. The Application is disposed of with the aforesaid observations.
No costs.



(Dr. A.K. Mishra)
Member-A

Girish/-