

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.**

O.A. No. 721 of 2005

Date of order : 26.12.06

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member (J)

1. Raghuni Sah, S/o Late Balgovind Sah, resident of village Bakhtiarpur, P.O. Malinagar, P.S. Chakmeshi, Samastipur.
2. Nagendra Sharma, S/o Late Ramchandra Rai, resident of village – Dighra, P.S. Pusa, Samastipur.
3. Ram Narayan Thakur S/o Late Ram Parikshan Thakur, r/o village Harpur, Samastipur.
4. Smt. Shiv Kumari Devi, Widow of Late Ram Padarath Thakur, resident of village Simri Gopal, District – Samastipur.

....Applicants

By Advocate : Shri I.D. Prasad

Vs.

1. The Union of India through the Secretary, Govt. of India, Ministry of Agricultural Research, New Delhi.
2. The Director, Central Tobacco Research Institute, I.C.A.R. Rajahmundry, A.P.
3. Accounts Officer, Central Tobacco Research Institute, ACAR, A.P.
4. The Senior Administrative Officer, Central Tobacco Research Institute, ACAR, A.P.
5. The Sr. Scientist and Head Central Tobacco Research Institute, Research Station Pusa, Samastipur (Bihar)

....Respondents

By Advocate : Shri Rajesh Kumar



ORDERBy Sadhna Srivastava, M (J):-

By this OA the applicants are seeking pension/family pension from the date of their superannuation. Further there is a prayer to quash the order dated 19.5.2001 as contained in Annexure A/3 whereby their requests to count 50 % of their service rendered as casual labour in the office of respondent No. 2 have been denied.

2. The facts, in brief, are that the applicant No. 1,2, 3 and the husband of applicant No. 4 were initially engaged as contingent paid casual labours in the year 1963, 1972, 1959 and 1968 respectively in the office of respondent No. 2. Admittedly, applicants No. 1, 2 and husband of applicant No. 4 were given temporary status with effect from 1.9.1993, whereas applicant No. 3 was regularized with effect from 12.11.1987. However, the applicant No. 1, 2 and 4 were regularized with effect from 2.6.1997, 2.6.97 and 3.6.1997 respectively and superannuated in the year 2000. After having retired from Central Tobacco Research Institute,



Research Station, Pusa, all the applicants have filed OA separately before this Tribunal for direction to count 50 % of their services rendered by them as casual labour for calculating qualifying period for the purpose of pension. All the four applications , namely, OA(s) No. 327/01, 439/01, 99/02 and 455/01 were disposed of with the direction to decided the representations in accordance with law by reasoned order. Pursuant to the above directions, the respondent No. 4 has rejected the claims of all the applicants on the ground that their services rendered as casual labour will not be counted for the purpose of pensionary benefits. Hence this OA.

3. The learned counsel for the applicants submitted that the applicant No. 1 had served as contingent paid casual labour for 34 years and rendered regular service from 1997 to 2000. This regular service amounts to three years. In the same way, the applicant No. 2 has completed 25 years as contingent paid casual labour and 3 $\frac{1}{2}$ years as regular service. The applicant No. 3 had worked as



contingent paid casual labour from 1959 to 1987. His regular service amounts to 13 years and is being paid pension for the service rendered by him as regular. The applicant No. 4 is wife of late Ram Padarath Thakur and her husband had worked as casual labour for 22 years and 3 $\frac{1}{2}$ as regular employee. The learned counsel for the applicant referred to Government of India, M.F O.M. No. F 12 (1) - E V/68 dated 14.5.1968 (Annexure a/2) and O.M NO 5-42/74-ka-3 dated 21.7.2000 issued by ICAR (Annexure A/1) which contains a direction that half service paid for contingencies will be allowed to count towards pension at the time of absorption in regular employment. Since all the applicants have put in more than 25 years of service as casual labour and therefore, according to the applicants, 50 % of such service needs to be counted for qualifying service for pension. If the same is added, then the applicants No. 1, 2 and 4 are entitled to pension under the Rules. In case of applicant No. 3 if the same is added, his pension will be enhanced as he is being paid pension ^{for} 13 years of regular service.



4. It has further been argued on behalf of the applicants that in a similar circumstances, some of the casual labours paid from the contingencies have been granted the benefits of past service i.e., half of the service rendered by them as casual labour as qualifying service for pension purposes in pursuance of GI MF O.M dated 14.5.1968 (Supra) vide order dated 24.9.2004 as contained in A/10. Hence it is alleged that the applicants have been discriminated.

5. The respondents have filed the reply and supplementary reply. According to them, the applicants No. 1, ¹ 2 and 3 do not qualify for the pensionary benefits as they have rendered less than 10 years of qualifying service until their superannuation. The respondents have not counted their past service, prior to regularisation as according to them, it is not covered by rules. However, according to the respondents, the applicants No. 1, 2 and husband of respondent No. 4 had worked as casual labour for 22 years and applicant No. 3 had worked for 7 years as casual labour.



The period of regular service of all the applicants have not been disputed by the respondents.

6. The facts which emerge out from the pleadings of the parties go to establish that (i) the applicants have been denied the benefits of casual service for the calculating qualifying period for the purpose of pensionary benefits, (ii) the employees of Indian Council of Agricultural Research, Eastern Region (Erstwhile employees of Central Tobacco Research Institute, ICAR, Rajamundry) have been given the same benefits vide order dated 24.9.2004. The only ground taken in para 2 'D' of 2nd Supplementary reply for giving benefits to similarly placed employees is that their case was referred to erstwhile Central Tobacco Research Station, Pusa which was merged with ICAR Research Complex for Eastern Region, Patna with effect from 1.4.2001. The employees retired from ICAR Research Institute has been fixed by the Central Inland Fisheries Research Institute (CIFRI) Barakpore. The Account Officer of CIFRI has granted the benefits of casual service for pensionary benefits in



pursuance of OM dated 14.5.1968 (Annexure A/2). It is not understandable that the employees of one department of the same Ministry i.e. Ministry of Agricultural Research (respondent No. 1) have been granted benefits of O.M dated 14.5.1968 while the employees of Central Tobacco Research Institute, ICAR falling under the same ministry have been denied the similar benefits. I am of the considered opinion that the respondents have failed to focus the grievance of the applicants claiming the benefits under the Office Memorandums dated 21.7.2000 and 14.5.1968 (Annexure A/1 and A/2) . The applicants have raised the plea of discrimination but the respondents have failed to explain the same.

7. One another aspect of the matter is in the impugned order (Annexure A/3). The respondents have referred to O.M dated 10.9.1993. It is recorded in the impugned order that the service rendered prior to 1.9.1993 as casual labour should not be counted for pensionary benefits. If that be so, how the other employees have been given the



benefits of casual service rendered prior to 1.9.1993 as evident from Annexure A/10. In the circumstances, the case is to be remanded to the respondents to meet out as to why the applicants are not entitled to the benefits given to the employees similarly placed and also why O.M dated 14.5.1968 and 21.7.2000 are not applicable to the applicants.

8. The case is remanded and the respondent No. 1 is directed to consider the benefits of 50% of casual service for calculating the benefits of pension as done in the case of similarly placed employees vide order dated 24.9.2004 (Annexure A/10) and either grant the benefits in the light of observations made above in the body of judgment or else pass a reasoned and speaking order within two months from the date of receipt of copy of this order.

9. The OA is disposed of, accordingly, without any order as to the costs.


[Sadhna Srivastava] M [J]

/cbs/