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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 90 of 1997.

DATE OF DECISION.....9-6-99

Shri Prafulla Chandra Talukdar. (PETITIONER(S))

Shri S. Sarma.

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

Shri K.N.Choudhury, Standing counsel for
ICAR.

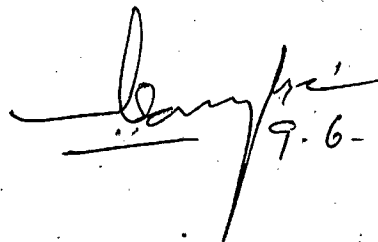
ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member.


9.6.99

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 90 of 1997.

Date of Order : 9.6.99

Shri G.L.Sanglyine, Administrative Member.

Shri Prafulla Chandra Talukdar,
Casual Labourer,
working in the office of the Respondent No.3
at Barapani, Meghalaya.

. . . Applicant.

By Advocate Shri S.Sarma.

- Versus -

1. Union of India,
represented by the Secretary
to the Government of India,
Ministry of Agriculture,
New Delhi.
2. The Indian Council of Agricultural Research(ICAR)
represented by its Director General,
Krishi Bhawan, New Delhi.
3. The Director,
Indian Council of Agricultural Research(ICAR)
ICAR Complex for N.E.Hills Region,
Shillong-3.

By Advocate Sri K.N.Choudhury, Standing counsel.

O R D E R

G.L.SANGLYINE, ADMN.MEMBER,

In this application the applicant seeks for direction to the respondents who conferred him temporary status with effect from 1.9.1993 under the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 1993 and to regularise his services in a Group 'D' post and for continuance of his service. According to the applicant he was engaged as a casual labourer under the Director, Indian Council of Agricultural Research (ICAR for short) since 1983 till the date of submission of this Original Application and had fulfilled the conditions stipulated in the scheme. Therefore, he was entitled to grant of temporary status and subsequent regularisation of his service. He submitted representations for that purpose but he has not been granted the prayer he made. Therefore, he has submitted this application. The

respondents contested the application. According to them the applicant was never appointed as Casual Labourer in the ICAR Research Complex for N.E.Hills Region at Shillong. The applicant was never engaged as Casual Labourer by the competent authority. He therefore is not entitled for grant of temporary status. The certificate issued by the Manager, Operation and Maintenance Cell upon which the applicant has based his claim cannot be accepted as valid because the authority is not a competent authority to appoint any casual labourer. The only competent authority is the Director himself i.e. respondent No.3. The applicant submitted that the respondent had falsely stated that there was no record to show that he was engaged as casual labourer by the competent authority and that the Manager, Operation and Maintenance Cell has no authority to issue the certificate in question. According to the applicant he worked under the Manager and he is fully competent to issue the certificate. In fact temporary status was granted to the casual labourers on the basis of the certificates issued by the concerned Managers and, in particular, in the case of the applicants in O.A.40/94 (Maya Thapa and others vs. Union of India & Ors.) all the applicants were granted temporary status on the basis of similar certificates issued by the Managers concerned. Therefore, denial of temporary status and regularisation to the applicant on this ground is violative of Article 14 and 16 of the Constitution of India.

2. I have heard learned counsel of both sides. In view of the dispute about the facts of the engagements of the applicant the respondents were directed by order dated 27.5.1998 in Misc.Petition No.56/98 to produce payment Register of casual workers of the Farm Manager, ICAR Research Complex upto 1993. The order was issued in the presence

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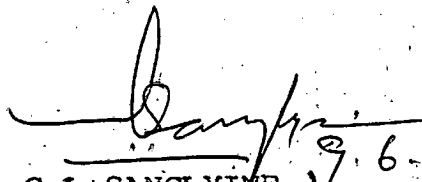
of the then Sr.C.G.S.C Mr S.Ali and Mr S.Sarma, counsel for the applicant. Opportunities to produce records were granted however the records were not produced till the last date of hearing and no one appeared for the respondents. An adverse inference can therefore be drawn that the statements of the respondents to the effect that the applicant was not engaged as casual labourer in their organisation is false. However, such inference is not drawn at present. On the other hand an opportunity is granted to the Director, ICAR, respondent No.3 to dispose of the representation submitted by the applicant dated 11.12.1997, Annexure-3C after due enquiry into the records and the facts and after hearing the applicant personally. Shri J.K. Bharali, Manager, Operation and Maintenance Cell had clearly stated in two certificates that the applicant was working in his Division. Similarly, Shri D. Medhi, Programme Officer in his certificate dated 3.2.1998 had issued certificate that the applicant was working as casual Carpentars in the Division of Operation and Maintenance Cell as on 1.1.1993. Such certificates could not have been issued without any basis by the officers. Therefore, while disposing of the representation the respondent No.3 shall inquire into the facts on the basis of which the certificates were issued and also into the cases of other casual employees who were granted temporary status on the basis of certificates issued by the Managers concerned and, particularly, the case of the applicants in O.A.40/94. The respondent No.3 shall thereafter communicate a speaking order to the applicant within 3 months from the date of receipt of this order. The applicant may also submit a fresh representation stating his grievances, if he desires, to the respondent No.3 within 20 days from today and if such representation is received, the respondent

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No.3 shall take the fresh representation into consideration.

If the applicant is still aggrieved he may approach this Tribunal again.

Application is disposed of. No order as to costs.


(G.L.SANGLYINE)
ADMINISTRATIVE MEMBER