

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

X

(DESTRUCTION OF RECORD RULES, 1990)

M.P-91/2001 order sheet Pg-1
disposed date- 30/03/2001

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 88/2000

OF 199

Applicant(s) I.C.A.R. Workers' Union.

Respondent(s) Union of India and ors.

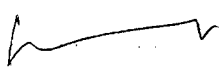

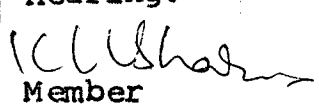
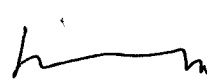
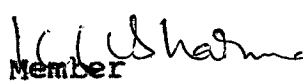

Advocate for Applicant(s) Mr. B.K. Sharma.
Mr. S. Sarma, Mr. U.K. Dair.

Advocate for Respondent(s) C.G. Se.

Notes of the Registry	Date	Order of the Tribunal
<p>9-3-2000</p> <p>Service of notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A/D. Vide D.Nos. 744 to 747 Dtd - 10.3.2000.</p>	<p>6.3.2000</p> <p>lm</p> <p>7/3/2000</p>	<p>Present: Hon'ble Mr.G.L.Sanaglyine, Administrative Member and Hon'ble Smt. Lakshmi Swamihathan, Member(J).</p> <p>Heard counsel for both sides.</p> <p>Application is admitted. Issue notice on the respondents by registered post. Returnable by 4 weeks. List on 6.4.2000 for written statement and further orders.</p> <p>Member(J)</p> <p>Member(A)</p>
<p>9-3-2000</p> <p>Service of notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A/D. Vide D.Nos. 744 to 747 Dtd - 10.3.2000.</p>	<p>6.4.00</p>	<p>Two weeks further time is allowed for filing of written statement on the prayer of Mr. B.C.Das, learned counsel for respondent No.3.</p> <p>List on 28.4.2000 for written statment and further orders.</p> <p>Member</p>

(2)

Notes of the Registry	Date	Order of the Tribunal
<p>① Notice duly served on R No-1. other Respod. are still awaited.</p> <p>② No. w/s has been filed.</p> <p>24/5.4.2000</p>	28.4.00	<p>Two weeks time is allowed on the prayer of learned counsel for KVS.</p> <p>List on 17.5.00 for filing of written statement and further orders.</p> <p>lm</p> <p>Member</p>
	17.5.00	<p>On the prayer of Mr B.C.Das, learned counsel for ICAR 3 weeks time allowed for filing of written statement.</p> <p>List on 7.6.00 for written statement and further orders.</p> <p>pg</p> <p>Member</p>
	7.6.00	<p>Present: Hon'ble Mr D.C. Verma, Judicial Member</p> <p>Learned counsel Mr S. Sarma for the applicant. Mr P. Bhowmik, learned counsel for the respondents 2, 3 and 4 seeks two weeks time to file written statement. Time is granted. List the case on 23.6.00 for orders.</p> <p>nkm</p> <p>Member (J)</p>
	23.6.00	<p>There is no Bench today.</p> <p>Adj'd on 20.7.00</p> <p>15/70</p> <p>bn.</p>
<p>No w/s has been filed.</p> <p>20/10/2000</p>	20.7.00	<p>no Bench is available.</p> <p>Adj'd on 21.8.00</p> <p>15/70</p> <p>bn.</p>
	21.8.00	<p>no Bench is available.</p> <p>Adj'd on 23.10.00</p> <p>15/70</p> <p>bn.</p>

Notes of the Registry	Date	Order of the Tribunal
<p><u>6-11-2000</u></p> <p>No. Written Statement has been filed by the respondents.</p> <p><u>By</u> 22.2.01</p> <p>No written statement has been filed.</p> <p><u>By</u> 29.3.01</p> <p><u>29.3.2001</u></p> <p>W/S on 6.4.01 R. no. 3 & 4 filed</p> <p>lm</p>	<p>23.10.00</p> <p>mk</p> <p>7.11.00</p> <p>pg</p> <p>23.2.01</p> <p>lm</p> <p>30.3.01</p> <p>pg</p>	<p>Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman</p> <p>Heard Mr.S. Sarma, learned counsel for the applicant and Mr.B.C. Das, learned counsel for I.C.A.R.</p> <p>Two weeks time is allowed to the respondents to file written statement.</p> <p>List on 7.11.00 for written statement and further orders.</p> <p> Vice-Chairman</p>
<p>No written statement has been filed.</p> <p><u>By</u> 22.2.01</p> <p>No written statement has been filed.</p> <p><u>By</u> 29.3.01</p>	<p>7.11.00</p> <p>pg</p> <p>23.2.01</p> <p>lm</p> <p>30.3.01</p>	<p>No written statement has been filed by the respondents though time was granted to them on number of occasions.</p> <p>List for hearing on 23.2.2001. The respondents may file written statement if they choose within a month from today with a copy to the applicant, failing which hearing shall proceed ex-parte.</p> <p> Vice-Chairman</p>
<p>No written statement has been filed.</p> <p><u>By</u> 29.3.01</p> <p><u>29.3.2001</u></p> <p>W/S on 6.4.01 R. no. 3 & 4 filed</p> <p>lm</p>	<p>23.2.01</p> <p>lm</p> <p>30.3.01</p> <p>pg</p>	<p>On the prayer of Mr.K.N.Choudhury learned counsel for the respondents case is adjourned to 30.3.01 for hearing.</p> <p> Member</p> <p> Vice-Chairman</p> <p>Written statement has been filed. The applicant may file rejoinder within two weeks from today.</p> <p>xxx List again on 27.4.01 for hearing.</p> <p> Member</p> <p> Vice-Chairman</p>

Notes of the Registry

Date

Order of the Tribunal

27.4.2001

No. Rejoinder has been
filed.

By
26.4.01

On the prayer of Mr B.C. Das on behalf
of Mr K.N. Choudhury, learned counsel for the
respondents, the case is adjourned till 22.5.01
for hearing.

K.C. Sharma
Member

[Signature]
Vice-Chairman

nkm

22.5.01

Leftover. List on 24.5.01.

1870
79

No. Rejoinder has been
filed.

By
26.6.01

24.5.01

Adjourned to 19.6.2001
AQ to 27.6.2001.

Bto
NS

2.7.2001

27.6.01

Rejoinder to the
W/S files has been
filed by the Respondents.

Ans.

Mr S.Sarma, learned counsel for the
applicant states that the similar
matters, namely, O.A.188/2000 and
175/2001 are listed for hearing on
24.7.01 and this case may also be
taken up alongwith those cases.

List on 24.7.2001 for hearing along-
with the cases mentioned above.

K.C. Sharma
Member

[Signature]
Vice-Chairman

pg

4.7.01

The case is ready
for hearing. As
regard W/S and
rejoinder,

By
30.7.01

Prayer has been made on behalf of
Mr.B.C.Das learned counsel for the
respondents for adjournment the case
on his personal ground. Prayer is
allowed. List on 31.7.01 for hearing.

K.C. Sharma
Member

[Signature]
Vice-Chairman

lm

(5)

4

Notes of the Registry	Date	Order of the Tribunal
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The case is ready for hearing.

29.8.2001

31.7.01

mb

On the prayer of the learned counsel for the respondents the case is adjourned to produced records.

List on 30-08-2001 for hearing.

Member

Vice-Chairman

THE CASE IS READY FOR HEARING

17.10.01

30.8.

21.9.

29.10

29.11.01

There is no Division Bench today. The case is adjourned to 21.9.2001.

21.9.

There is no Division Bench today. The case is adjourned to 18/10/2001.

21.9.

There is no Division Bench today. The case is adjourned to 29.11.2001.

18/10

Heard learned counsel for the parties. Hearing concluded. Judgment delivered in the open court, kept in separate sheets. The application is disposed of. No order as to costs.

Member

Vice-Chairman

trd

26.12.2001

Copy of the order has been sent to the office for issue of the copy as well as to the parties in the reply.

#8

Notes of the Registry	Date	Order of the Tribunal

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CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.A. No. 88 of 2000 of

DATE OF DECISION 29.11.2001

Indian Council of Agricultural Research (ICAR) APPLICANT(S)
Workers' Union

Mr. B.K.Sharma

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors. RESPONDENT(S)

Mr. B.C.Das.

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN.

THE HON'BLE MR. K.K.SHARMA, MEMBER (A).

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 ?

5.

Judgment delivered by Hon'ble Vice-Chairman.

W/O
h

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 88 of 2000.

Date of decision : This the 29th day of November, 2001.

Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.

Hon'ble Mr. K.K.Saharma, Member (A).

Indian Council of Agricultural
Research (ICAR) Workers' Union,
Registration No. 75/91, Office at
Barapani, Shillong.
represented by its General Secretary-
Smt. Maya Thapa.

Applicant

By Advocate Mr. B.K.Sharma.

-versus-

1. The Union of India,
represented by the Secretary
to the Government of India,
Ministry of Agriculture,
New Delhi.
2. Director General,
ICAR, New Delhi.
3. The Director,
Indian Council of Agricultural
Research, ICAR Complex,
N.E. Hill Region, Cedar Lodge,
Shillong-793003.
4. Shri N.D.Verma,
Director, Indian Council of
Agricultural Research, ICAR
Complex, N.E.Hill Region,
Cedar Road,
Shillong-3.

..Respondents

By Advocate Mr. B.C.Das.

O R D E R (ORAL)

CHOWDHURY J.(V.C.).

The present application is the off shoot of GC No.112/87 disposed of by this Tribunal on 12.1.1988 and finally decided by the Hon'ble Supreme Court on 20.1.1990 disposing the Special Leave Petition in Civil Appeal No.5159 of 1988. In this application the applicants stated and contended that they were not provided with the full benefit

Contd....

of the Office Memorandum dated 7.6.1988. It is also contended that the casual labourers those who were appointed in 1976 and later on conferred temporary status only with the instance of the court have not yet been made regular. The applicants also ventilated their grievances in the way the authority disposed of their representations including the Union.

The respondent nos. 1 and 2 did not file any written statement, only the respondent nos. 3 and 4 filed their written statement and contended that all possible steps were taken to confer the benefit of the 1988 Office Memorandum by the respondents. The respondent nos. 3 and 4 also stated that the benefits as per provision laid down in the guidelines of 1988 office memorandum had been extended to the applicants. Only regularisation against the regular Group D cadre posts could not be done due to non-availability of regular sanctioned posts in Group D cadre, for which a proposal of respondent no.2 is still pending with the Ministry of Finance.

We have heard Mr. B.K.Sharma, learned Sr. counsel for the applicants and Mr. B.C. Das, learned standing counsel for the I.C.A.R.

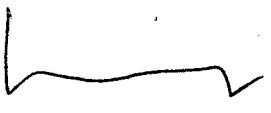
At the first instance we may point out that the representations of the applicants; more particularly that the representation submitted by the General Secretary of the Union on behalf of the members was not attended to. The Director, ICAR Research Complex holds a high post and addressing a communication to the representative of Union - one could have appropriately addressed the person instead of describing the General Secretary as "so called". Even though the respondent nos. 3 and 4 provided the benefit under the law as per the order of the Tribunal and the Hon'ble Supreme Court, it was not appropriate to hold that the applicants have forfeited their rights to get the benefit under both the schemes. The authority

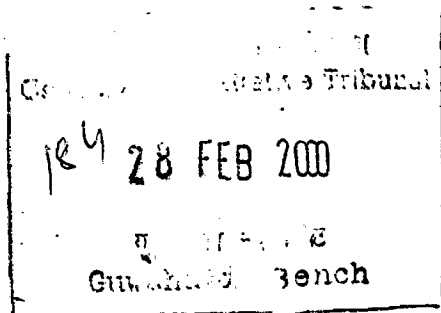
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have conferred the benefit of temporary status to the applicants save and except regularisation. There is no justification to delay in regularisation least it will make a direction of the Apex Court Chimerical. The schemes were prepared for regularisation by the Govt. of India in terms of the directions issued by the Hon'ble Supreme Court and law laid down thereunder. The fact that the applicants accepted the employment under the respondents in terms of employment did not take away the responsibility of the authority to provide its employees benefit of equality and equal protection of law. By the decision of the Hon'ble Supreme Court clearly tried to avoid all forms of discrimination and as a result numerous schemes were prepared. As per the 1988 scheme these applicants were entitled to be regularised as was held by the Tribunal in its earlier judgment. In the order passed in GC 112/87 the Tribunal held that these applicants shall be deemed to be in continuous service since they were not allowed to join their duties. The authorities were fully aware of this matter but the full benefit of the 1988 scheme were not given to the applicants. Interestingly the respondents nos. 1 and 2 did not file anywritten statement. The only explanation submitted by the respondent nos.3 and 4 that steps for regularisation could not be taken due to non-availability of the regular sanctioned posts in Group D cadre. We hope and trust that the respondents shall fulfil their obligation and responsibility to the decision of the Tribunal at the earliest and take necessary measure for regularisation of the casual labourers who are holding temporary status.

With the observations made above, the application is disposed of. There shall, however be no order as to costs.

14 K.K.Sharma
(K.K.SHARMA)
Member(A)


(D.N.CHOWDHURY)
Vice-Chairman



THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
GUWAHATI

O.A. No. 88 of 2000

ICAR Workers' Union ... Applicant

- Versus -

The Union of India & Ors. ... Respondents

I N D E X

SL.NO.	PARTICULARS OF DOCUMENT	OPAGE/NO.
1.	Application	1 to 16
2.	Verification	17
3.	Annexure-1	18 - 20
4.	Annexure-2	21 - 24
5.	Annexure-3	25 - 27
6.	Annexure-4	28 - 29
7.	Annexure-5	30 - 31
8.	Annexure-6	32 - 34
9.	Annexure-7	35
10.	Annexure-8	-

For use in Tribunal's Office :

Date of filing :

Registration No. :

Registrar

Filed By:
The Applicants
Through,
U.K. Nair
Advocate

THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
GUWAHATI

O.A. No. 88 of 2000

BETWEEN

Indian Council of Agricultural Research
(ICAR) Workers' Union, Registration No.
75/71, office at Barapani, Shillong,
represented by its General Secretary - Smti.
Maya Thapa

... Applicant

AND

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Agriculture, New Delhi.
2. The Director General, ICAR, New Delhi.
3. The Director, Indian Council of
Agricultural Research, ICAR Complex, N.E.
Hill Region, Cedar Lodge, Shillong-3.
4. Shri N.D. Verma, Director, Indian
Council of Agricultural Research, ICAR
Complex, N.E. Hill Region, Cedar Road,
Shillong-3.

... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE
APPLICATION IS MADE :

The present O.A. is directed against letter No.
RC(G)23/94 dated 1.5.99 issued by the Respondents No. 3
and 4 to the Applicant purportedly disposing of the
representation of the Applicant Union which was
directed to be disposed of by the Hon'ble Tribunal. The
application is also filed with a prayer to draw up
contempt of court proceeding against the Respondent No.
4 invoking the power under Section 17 of the A.T. Act,
1985 and the rules framed thereunder.

M. Thapa

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2. JURISDICTION OF THE TRIBUNAL :

The Applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The Applicant further declares that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the Applicant is a registered Union of Casual Labourers who are engaged in the ICAR Complex for N.E.H. Region at Barapani under the Respondents. The ICAR is a "State" within the meaning of Article 12 of the Constitution and it follows the rules and regulations framed by the Government of India from time to time.

4.2 That the ICAR Complex for the NEH Region headed by a Director was established in the year 1975 with the headquarter at Cedar Lodge, Jowai Road, Shillong. As a part of the research complex, 5 farm complexes were set up at various places within the State of Meghalaya. The Barapani Research Centre is the largest centre of the ICAR Complex and all the divisions of ICAR are situated there.

4.3 That the Applicant Union in the instant case has come on behalf of the casual labourers who had been appointed since 1976 onwards and have been working in

M. Thapa

the various complexes of the ICAR in the North East Region. The permanent nature of work performed by the casual labourers is of similar and same and equal to that of the nature of work performed by the regular Grade-IV employees of the ICAR and there is no denial of the same.

4.4 That the services of the members of the Union viz. the casual labourers were and have been taken by the Respondents in exploitative terms and they were not paid the minimum of the wages admissible to them. They were also not given the benefits of the various circulars issued by the Government of India from time to time. Even as Casual workers they were paid much less than their entitlement. They were made to work at Rs.25/- per day only for the working days and they were not paid for the holidays although works were taken from these hapless workers. They were also not given the other benefits like DA, increments, pension, leave facilities, regular monthly salary etc. and other allowances. As already stated above, though the casual workers performed equal/similar nature of work like that of other regular Grade-IV employees of the ICAR, even then they were discriminated and all those benefits that are made available to the regular Grade-IV employees were/are not extended to them.

4.5 That the ICAR project is classified under two heads viz. General Multiplication and Farming System headed by two Managers. The casual workers have all along been serving under the aforesaid two heads and thus are being engaged in technical works of regular

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nature. As a result of their continuous exploitation since long, the daily rated casual workers joined together and formed the ICAR workers union, which got its registration in 1991. The ICAR workers union (the Applicant in the instant case) is the only Union of the workers of ICAR. After its formation, the Applicant on its various occasion put forth the demands of the workers before the ICAR management. These demands were regularisation of the workers' services, fixation of working hours in accordance with law, declaring Sunday as public holiday and grant of overtime allowances and other allowances admissible under the rules. In spite of making various representations, the Applicant failed to obtain any relief for the workers of the ICAR because of the intransigencies displayed by the ICAR management, the period during 1985-86 also witnesses strikes and lock outs at the ICAR complexes at Shillong and surrounding areas.

4.6 That the unrest during 1985-86 resulted in retaliatory and repressive measures by the ICAR management as a result of which many workers were either removed from service or they were not allowed to resume their duties by the management. All these issues alongwith the claim for regularisation of services formed the crux of the subject matter of Civil Rule No. 712/E6 which the workers of the ICAR filed before the Gauhati High Court. With the establishment of the Central Administrative Tribunal at Guwahati, the aforesaid Civil Rule was transferred wherein it was

M. Thapa

disposed of as O.A. No. 112/87 by judgment and order dated 12.1.88 with the following directions :

" As regards the claim for regularisation of the services of the Petitioners, we do not think that we shall be justified in making any order in the facts and circumstances of the case but we hope and trust that the Respondents shall take necessary steps for regularisation of their services in accordance with law..... The Respondents are directed to allow the Petitioners to resume their duties forthwith and they shall be deemed to be in continuous service with all the service benefits from the date they were not allowed to join their duties."

The Applicant craves leave of the Hon'ble Tribunal to produce the copy of the judgment at the time of hearing of the O.A.

4.7 That after the aforesaid judgment more than 12 years have passed by and during these years, not only the judicial approach of the Apex Court towards the problems of the daily rated workers have undergone a change but even the Government of India have issued circulars in order to improve the lot of casual workers and to alleviate their sufferings. However, notwithstanding all these changes the ICAR management has religiously stuck to its old behaviour. As a result there has not been ostensible improvement in the plight of the daily rated workers of the ICAR.

4.8 That the Government of India apart from its earlier circulars dealing with the service conditions

M. Thapa

of the casual workers had issued an office memorandum dated 7.6.88 by way of reviewing the conditions of the services of the casual workers and laid down certain guidelines which inter alia provide as follows :

"(i) Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/3th of the pay at the minimum of the pay scale plus dearness allowance for the work of 18 hours a day.

(ii) In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worker may be paid only minimum wages notified by the Ministry of Labour of the State Government/Union Territory whichever is higher as per the Minimum Wages Act, 1948. However, if a department is paying daily wages at a higher rate, the practice could be continued.

(iii) The casual workers be given one paid weekly "off" after six days of continuous work.

A copy of the said OM dated 7.6.88 is annexed as ANNEXURE-1.

A copy of the OM dated 10.9.93 is annexed as ANNEXURE-2.

4.9 That in the year 1993, the Government of India issued yet another memorandum No. 51016/2/90-ESTT(C) dated 10.9.93 laying down the further guidelines in terms of which the casual workers are entitled to grant

M. Thapa

of temporary status with the consequential benefits mentioned therein.

4.10 That the grievance of the Applicant when was not redressed, they were constrained to file O.A. No. 40/94 and during the pendency of the same, the casual workers were granted the benefit of temporary status as per Annexure-2 OM dated 10.9.93. In such a situation, the OA was disposed of by an order dated 24.9.97 and as regards the claim of the Applicant for the benefits under the 1988 OM, the Hon'ble Tribunal was pleased to issue a direction to the Respondents more particularly the Respondents No. 3 and 4 to consider that aspect of the matter. It was provided in the said order that the Applicant Union may submit a representation with the direction to dispose of the same by reasoned order within a period of two months.

A copy of the said order dated 24.9.97 is annexed as ANNEXURE-3.

4.11 That the Applicant thereafter submitted a representation dated 2.10.97 urging upon the Respondents No.3 and 4 to consider their case in terms of the aforesaid order of the Hon'ble Tribunal followed by a legal notice dated 9.3.98 when no action was forthcoming from the said Respondents. Thereafter the Applicant Union was constrained to file contempt petition No. 36/98 which was disposed of by an order dated 5.4.99. The plea taken on behalf of the Respondents was that the representations were not filed and therefore, the question of disposing of the same

M. Thapa

did not arise. Situated thus, the Hon'ble Tribunal was pleased to dispose of the C.P. with a direction to the Respondents to dispose of the representation, copy of which was filed/annexed with the contempt petition. A copy of the representation was also handed over to the learned counsel for the Respondents as has been recorded in the order itself. With this, the Hon'ble Tribunal issued the direction to dispose of the representation within one month.

A copy of the said order dated 5.4.99 is annexed as ANNEXURE-4.

4.12 That the Applicant Union was surprised to receive a letter No. RC(G)23/94 dated 1.5.99 stating inter alia that no representation was filed and thus question of disposal of the same did not arise. It was further stated that the workers have forfeited their right to get the benefits under both the Schemes and that the directing of the Hon'ble Tribunal has been fully implemented and that no injustice have been done to the working temporary status mazdoors of the ICAR complex and thus the representation alleged to have been filed on 10.2.98 was disposed of by the said letter.

A copy of the said letter dated 1.5.99 is annexed as ANNEXURE-5.

4.13 That the Applicant states that a bare perusal of the said letter dated 1.5.99, it is revealed that there is total non application of mind and the representation of the Applicant and for that matter, the claim of the Applicant to get the benefit under the 1988 Scheme was

M. Thapa

not at all considered. In the impugned order, it was rather insisted upon that the representation was never filed unmindful of the fact that a copy of the same was very much annexed to the contempt petition and another copy was also handed over to the learned counsel for the Respondents and the same was also mentioned in the order dated 5.4.99 passed in C.P. No. 36/98. It was only thereafter the direction as contained in the order dated 5.4.99 was passed by this Hon'ble Tribunal and the Respondent No. 4 could not have defied the same by his impugned letter dated 1.5.99. By his such action towards defiance of the order of this Hon'ble Tribunal, the Respondent No. 4 has made himself liable for contempt of court proceeding for wilful and deliberate violation of the order of this Hon'ble Tribunal. Accordingly, it is prayed that appropriate action be taken against the said Respondent as provided for under the provisions the A.T. Act, 1985 and the rules framed thereunder apart from granting the reliefs as has been prayed for in the O.A.

4.14 That the Applicant having not understood anything regarding the contentions raised in the letter dated 1.5.99, submitted yet another representation dated 19.5.99 to the Respondents No.3 and 4 asking for clarification of the said contentions.

A copy of the said letter dated 19.5.99 is annexed as ANNEXURE-6.

4.15 That the Applicant states that the Respondents No.3 and 4 could not have said that the Applicant Union

M. Thapa

has forfeited its right of claiming the benefits under the 1988 Scheme after availing the benefits under the 1993 Scheme. There is no question of exercising any option and it is their right to get the benefits of the various schemes issued by the Government of India from time to time. The Applicant has been persistently and continuously deprived of the benefits of various schemes framed by the Government of India and ever since the entry of the casual workers in the services of the ICAR, it has been the story of their exploitation and non-payment of their wages at the admissible rates and deprivation of other service benefits. When the 1988 scheme was in existence, the ICAR management ought to have extended the benefits of the said schemes to the workers, more particularly, in view of the direction of this Hon'ble Tribunal passed in O.A. No. 112/87 (Civil Rule No. 712/86). Instead they kept on waiting and sitting over the matter till filing of the O.A. No. 40/94 by the Applicant. Having realised that the matter has gone to the Court and the injustice being meted out to the workers are being vindictive and there being no alternative, the Respondents granted the temporary status to the members of the Union as per the 1993 scheme, but in the process failed to take into consideration the benefits to which the Applicant Union members and for that matter all the casual workers were entitled to under the 1988 scheme.

4.16 That the Applicant states that apart from the fact that they have been deprived of the benefits as visualised in the OM dated 7.6.88, they have also not

M. Thapa

been granted the benefits as visualised in the OM dated 10.9.93 except granting of temporary status to the casual workers. In this connection, the entitlement under the said schemes may be referred to. The casual workers working in the ICAR are yet to be granted the benefits to which they are entitled under the said scheme of 1993. Thus the Respondents have turned a volte face from their own commitment in respect of the entitlement of the casual workers working in the ICAR.

4.17 That the Applicant states that their case is squarely covered under the 1988 scheme and accordingly, they are entitled to the benefits extended under the said OM. However, they were only paid at the rate of Rs.25/- per day for the working days leaving aside the holidays on which days also they were made to work, but without any remuneration. They were also made to work for extra hours but were not paid any overtime allowance. They having performed the same nature of jobs and same amount of works involving same hours of employment, they could not have been deprived of their entitlement as admissible under the OM dated 7.6.88. It is ridiculous on the part of the Respondent No. 4 to say that the Applicant have forfeited their rights to get the benefits under the OM dated 7.6.88. By saying so, the said Respondent has virtually admitted that the Applicant Union is entitled to the said benefits under the OM dated 7.6.88 but has taken the plea that having conferred with the benefit of TSM under the 1993 Scheme, the members of the Union have forfeited their right to get the benefits under the 1988 scheme.

M. J. Hapa

4.18. That the Applicant states that during the period from 1988 to 1993, the OM dated 7.6.88 was holding the field and the Respondents of their own ought to have granted the benefits to the casual workers under the 1988 scheme. With the coming into force the 1993 scheme and when the benefits under the same were also not extended to the casual workers, the Applicant was constrained to file O.A. No. 40/94 making a specific claim therein for extending the benefits under the OM dated 7.6.88 which the Hon'ble Tribunal was pleased to consider and accordingly a direction was issued to the Respondents to consider that aspect of the matter. However, the Respondents No.3 and 4 in a most arbitrary, illegal and contemptuous manner have issued the impugned letter dated 1.5.99 which speaks volumes of malafide and colourable exercise of power. There is not even an iota of doubt from the contents of the letter dated 1.5.99 that the Respondent No. 4 has got no regard to the orders of this Hon'ble Tribunal and accordingly, he is liable for contempt of court proceeding.

4.19 That the Applicant states that pursuant to the judgment dated 12.1.88 passed in O.A. No. 112/87, the casual workers are entitled to all their service benefits including payment of arrear salary. However, till this very date, the Respondents have not paid their salaries for the period from 13.1.88 to April 1990. In this connection, the Administrative Officer of the ICAR had written a letter No. RC(G)49/96 dated 12.11.98 making a request therein to communicate the

M. Jhapa

Council's decision regarding payment of arrear wages to the casual workers.

A copy of the said letter dated 12.11.98 is annexed as ANNEXURE-7.

4.20 That the Applicant states that the Applicant Union submitted yet another representation dated 22.4.99 which was proceeded by forwarding of the minutes of the meeting held on 20.6.98 of the Applicant Union. However, till this very date, no action has been taken towards compliance of the order of this Hon'ble Tribunal as well as payment of arrear salary to the casual workers and so also the entitled benefits under the 1988 and 1993 Schemes. The Applicant craves leave of the Hon'ble Tribunal to produce the minutes of the meeting dated 20.6.98 and a copy of the letter dated 22.4.99 at the time of hearing of the O.A.

4.21 That the aforesaid facts and circumstances have necessitated the Applicant Union once again approach this Hon'ble Tribunal towards redressal of their grievance.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the impugned letter is per se arbitrary, illegal and contemptuous and accordingly, the same is not sustainable and liable to be set aside and quashed.

5.2 For that the Respondents could not have deprived the benefits under the 1988 scheme to the casual workers on ground of forfeiture of their claim, more particularly, when there is a specific order of the

M. Thappa

Hon'ble Tribunal to consider the case of the casual workers under the said scheme by this Hon'ble Tribunal.

5.3 For that inspite of the orders of the Hon'ble Tribunal as well as the Apex Court, the casual workers could not have been deprived of their arrear salary for the period 1988 to 1990 on ground of no specific sanction being there from the Council headquarter.

5.4 For that the impugned letter dated 1.5.99, apart from being illegal and arbitrary is also contemptuous for which the Respondent No. 4 is liable for contempt of court proceeding.

5.5 For that the Respondents could not have defied the orders of this Hon'ble Tribunal and the services of the members of the Applicant ought to have been regularised long back instead of taking their services in exploitative terms.

5.6 For that the Respondents are duty bound to extend the benefits to the members of the Applicant as are admissible to them under the 1988 and 1993 schemes apart from payment of their arrear salary for the period from 1988 to 1990.

5.7 For that in any view of the matter, the impugned action is not sustainable and liable to be interferred with by this Hon'ble Tribunal with appropriate order towards granting the reliefs to the members of the Applicant alongwith drawing up a contempt proceeding against the Respondent No. 4.

M. Thapa

6. DETAILS OF REMEDIES EXHAUSTED :

The Applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

7. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the Applicant prays that this application be admitted, records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

8.1 To set aside and quash the impugned letter dated 1.5.99 (Annexure-5) ;

8.2 To direct the Respondents to extend the benefits to the casual workers as admissible to them under the OMs dated 10.9.93 and 7.6.88 and to pay them their arrears on implementation of the said scheme and other admissible benefits together with interest due thereon at the Bank rate ;

M. Thapa

8.3 To direct the Respondents to pay the arrear salary to the casual workers for the period from 13.1.88 to April 1990 together with interest due thereon at the Bank rate.

8.4 Cost of the application ;

8.5 Any other relief or reliefs to which the casual workers are entitled and as may be deemed fit and proper by this Hon'ble Tribunal under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :

Under the facts and circumstances of the case, the Applicant does not pray for any interim relief at this stage.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- i) I.P.O. No. : ~~06458832~~ 06 49 3061
ii) Date. : 14.2.2000. 27.2.2K
iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

M. J. Hapn

VERIFICATION

I, Smt. Maya Thapa, General Secretary of the ICAR Workers Union, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 3, 4.1 to 4.7, 4.12, 4.13 ✓

✓ to 4.18, 4.20, 4.21 and 5 to 12 are true to my knowledge ; those

✓ made in paragraphs 4.8, 4.10, 4.11^{and}, 4.19 are true to my

information derived from records and the rests are my humble submissions before the Hon'ble Tribunal. I am also authorised and competent to sign this verification on behalf of the Applicant.

And I sign this verification on this the 16 th day of February 2000.

Maya Thapa

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C O P Y

ANNEXURE - 1

F.No.49014/2/86-Estt(C)
GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND
PENSIONS
DEPARTMENT OF PERSONNEL AND TRAINING

NORTH BLOCK, NEW DELHI-110001

Dated, the 7th June, 1988.

OFFICE MEMORANDUM

Sub: Recruitment of casual workers and persons on daily wages-- Review of policy:

The policy regarding engagement of casual workers in Central Government Offices has been reviewed by Government keeping in view the judgement of the Supreme Court delivered on the 7th January, 1988 in the Writ Petition filed by Shri Surinder Singh and other Vs. Union of India and it has been decided to lay down the following guidelines in the matter of recruitment of casual workers on daily wage basis.

- (i) Persons on daily wages should not be recruited for work of regular nature.
- (ii) Recruitment of daily wagers may be made only for work which is of casual or seasonal or intermittent nature or for work which is not of full time nature, for which Regular posts cannot be created.
- (iii) The work presently being done by regular staff should be reassessed by the administrative Departments concerned for output and productivity so that the work being done by the casual workers could be entrusted to the regular employees. The Departments may also review the norms of staff for regular work and take steps to get them revised, if considered necessary.
- (iv) Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day.
- (v) In cases where the work done by a casual worker is different from the work done by a regular employee the casual worker may be paid only the minimum wages notified by the Ministry of Labour of the State Government/Union Territory Administrative whichever is higher, as per the Minimum wages Act, 1948. However, if a Department is already paying daily wages at a higher rate, the practice could be continued with the approval of its Financial Adviser.
- (vi) The casual workers may be given one paid weekly off after six days of continuous work.

(Contd....2/-)

// 2 //

- vii) The payment to the casual workers may be restricted only to the days on which they actually perform duty under the Government with a paid weekly 'off' as mentioned at (vi) above. They will, however, in addition, be paid for a National Holiday. If it falls on a working day for the casual workers.
- viii) In cases where it is not possible to entrust all the items of work now being handled by the casual workers to the existing regular staff, additional regular posts may be created to the barest minimum necessary, with the concurrence of the Ministry of Finance.
- ix) Where work of more than one type is to be performed throughout the year but each type of work does not justify a separate regular employee, a multifunctional post may be created for handling those times of work with the concurrence of the Ministry of Finance.
- x) The regularisation of the services of the casual workers will continue to be governed by the instructions issued by this Department in this regard. While considering such regularisation, a casual worker may be given relaxation in the upper age limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age limit for the relevant post.
- xi) If a Department wants to make any departure from the above guidelines, it should obtain the prior concurrence of the Ministry of Finance and the Department of Personnel and Training.

All the administrative Ministries/Departments should undertake a review of appointment of casual workers in the offices under their control on a time-bound basis so that at the end of the prescribed period the following targets are achieved.

- (a) All eligible casual workers are adjusted against regular posts to the extent such regular posts are justified.
- (b) The rest of the casual workers not covered by (a) above and whose retention is considered absolutely necessary and is in accordance with the guidelines, are paid emoluments strictly in accordance with the guidelines.
- (c) The remaining casual workers not covered by (a) and (b) above are discharged from service.

2. The following time limit for completing the review has been prescribed in respect of the various Ministries/Departments:

(a) Ministry of Railways	2 Years
(b) Department of Posts, Department of Tele- communications and Department of Defence production	1 Years

(Contd....2/-)

11/3/88

(c) All other Ministries/
Departments/Offices ... 6 months

Each Ministry should furnish a quarterly statement indicating the progress of the review in respect of the Ministry (proper) and all Attached/Subordinate offices under them to the Department of Personnel and Training in the proforma attached. The first quarterly return should be furnished to this Department by the 10th October, 1988.

3. By Strict and meticulous observance of the guidelines by all Ministries/Departments, it should be ensured that there is no more engagement of casual workers for attending to work of a regular nature, particularly after the review envisaged above is duly completed. Each Head of Office should also nominate an officer who would scrutinise the engagement of each and every casual worker and the job for which he is being employed to determine whether the work is of casual nature or not.

4. Ministry of Finance etc., are requested to bring the contents of this Office Memorandum to the notice of all the appointing authorities under their respective administrative control for strict observance. Cases of negligence in the matter of implementing these guidelines should be viewed very seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters.

Sd/-

(D.P. BAGCHI)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA

C.No. 1(5)17/Adm-IV/88

Dated :-

Copy along with the copy of the proforma forwarded to the Assistant Collector.....for necessary action. He is requested to direct the Officer-in-charge of L.C.S. for strict compliance.

2. The Superintendent K. & J. Mills, Coll Shillong, for similar action.

3. The Administrative Officer, Establishment/P.R.O. (Hqs.) for necessary action.

(R.D. CHAKRABORTY)
ADMINISTRATIVE OFFICER (HQS.)
CUSTOMS & CENTRAL EXCISE, SHILLONG.

A-1/11/88

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ANNEXURE - 2
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No. 51016/2/90-Estt(C)
Government of India
Min. of Per, P.G. and Pensions,
Deptt. of Per. & Trg.

New Delhi, the 10th Sep. 1993.

OFFICE MEMORANDUM

Subject: Grant of Temporary status and regularisation of Casual workers- formulation of a scheme in pursuance of the CAT, Principal Bench New Delhi, judgement dated 16th Feb. 1990 in the case of Shri Raj Kamal & others Vs. U.O.I.

The guidelines in the matter of recruitment of persons on daily wages basis in Central Government offices were issued vide this Department's O.M.No. 49014/2/86-Estt (C), dated 7-6-1988. The policy has further been reviewed in the light of the judgement of the CAT, Principal Bench, New Delhi, delivered on 16.2.1990 in the writ petition filed by Shri Raj Kamal and others Vs. Union of India and it has been decided that while the existing guidelines contained in O.M. dated 7-6-1988 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Govt. offices other than Department of Telecom, posts and Railways may be regulated by the scheme as appended.

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11(55)1993
28/9.1
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2. Ministry of Finance etc. are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in O.M. dated 7-6-1988. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

Sd/-

(Y.G. PARANDE)
DIRECTOR

All Mins./Deptts. of the Govt. of India.

APPENDIX

Department of Personnel & Training, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme.

1. This scheme shall be called "casual labourers (Grant of Temporary status and Regularisation) Scheme of Govt. of India, 1993".

2. This scheme will come into force w.e.f. 1-9-1993.

3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Govt. of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Deptt. of posts who already have their own schemes.

4. Temporary status

i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of at least one year which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).

ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.

iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.

iv) Such casual labourers who acquire temporary status will not however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

5. Temporary status would entitle the casual labourers to the following benefits :-

✓ i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including DA, HRA and CCA.

ii) Benefits of increments at the same rate as applicable to a Group D employees would be taken into account for calculating pro-rata wages for every one year of service, subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.

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iii)

Leave entitlement will be on a pro-rate basis at the rate of one day for every 10 days of work, casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment leave on termination of service for any reason or on their quitting service.

iv)

Maternity leave to lady casual labourers as admissible to regular group 'D' employees will be allowed.

v)

50% of the service rendered under Temporary status would be counted for the purpose of retirement benefits after their regularisation.

vi)

After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two surities from permanent Govt. servants of their Department.

vii)

Until they are regularised, they would be entitled to productivity Linked Bonus/Ad-hoc bonus only at the rates as applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourer with temporary status. However, if any additional benefits are admissible to Casual Workers working in Industrial establishments in view of provisions of Industrial Dispute Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of a casual labourers may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

8. Procedure for filling up of Group D posts

i)

Two out of every three vacancies in Group 'D' cadre in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Deptt. of Personnel & Training from amongst casual workers with

..... 4/-

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temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.

10. In future, the guidelines as contained in this Department's O.M. dated 7.6.1988 should be followed strictly in the matter of engagement of casual employees in Central Government offices.

11. Department of Personnel & Training will have the power to make amendments or relax any of the provisions in the Scheme that may be considered necessary from time to time.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 40/94

Date of Order : This the 24th Day of September 1997

Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman

Hon'ble Shri G.L. Sanglyine, Member, Administrative

1. The Indian Council of Agricultural Research (ICAR) Workers Union, Office of Barapani, Shillong, representation by its General Secretary, Smti Maya Thapa.

...Applicants

By Advocate Mr. B.K. Sharma, Mr. M.K. Choudhury.

-Vs-

1. The Union of India, represented by the Secretary, Ministry of Personnel, Public Grievances and Pensions, New Delhi.
2. The Director, Indian Council of Agricultural Research, ICAR Complex, for North Eastern Hill Region, Cedar Road, Shillong-3.

...Respondents

By Advocate Mr. S. Ali, Sr.C.G.S.C.

ORDERBARUAH J(V.C.) :

The Applicant is a registered Union of the employees of Indian Council of Agricultural Research (for short ICAR), at Barapani. This Union represents the interest of the members of the Union. The names mentioned in Annexure A are some of the members of the

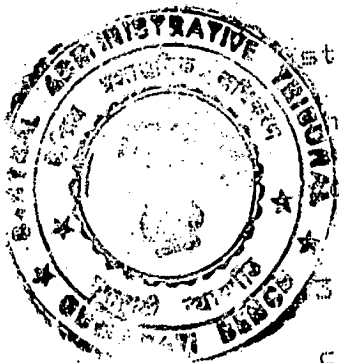


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Applicant Union. They have been engaged casual labourers for many years as mentioned in Annexure A. the Govt. of India prepared a scheme known as "casual labourers (grant of temporary status and regularisation." This scheme came into force from 1.9.1993. it is admitted that the members of the Applicant Union are entitled to the benefit of said scheme. inspite of that, authorities have not granted temporary status to them. hence this present application.

2. The contention of the Applicants is that they are also entitled to get the benefit of the another scheme, as mentioned in Annexure 'C'. They claimed the benefit of the under that scheme, for grant of temporary status. However, they had not been granted the benefit, therefore, they filed an original application in the year of 1994.



3. We have been both sides. Mr. B.K. Sharma learned counsel appearing on behalf of the Applicants submits that during the pendency of this application the Respondents granted temporary status to the members of the Applicant as per Annexure 'C' Office Memorandum dated 10.9.93. Therefore, in so far of the Applicants for grant of temporary status is concerned this application has become infructuous. However, the Applicants are also entitled to the benefit of 1989 scheme which was denied to them. All facts regarding

27 31

the scheme 88 are not available here. Records have not been produced before this Tribunal by the Sr. Central Government Standing Counsel on behalf of the Respondents inspite of the order. Therefore, it is not possible for this Tribunal to decide the matter.

4. In view of the above we dispose of the application with a direction to the Respondents specifically Respondent No. 2 to consider this aspect to the matter. For that purpose the Applicant Union may submit a representation giving details of the claim before the authority within 3 weeks from to-day. if such representation is filed within the said period the Respondents shall consider the representation also and shall pass a reasoned order within 2 months.

Thereafter considering the entire facts and circumstances of the case we make no order as to costs.

Sd/- Vice Chairman

Sd/- Member (A)

TRUE COPY

Section Officer (J)

अनुमान अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अदालत
Guwahati Bench, Guwahati-8
गुवाहाटी न्यायपीठ, गुवाहाटी-8

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Annexure - 4

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: :: :: GUWAHATI

CONTEMPT PETITION NO. 36 /98 In
O.A. 40/94

Smt. Maya Thapa, Genl. Secretary,
I.C.A.R. Workers Union

...
Versus
...

Union of India & Ors.

Applicant.

Respondents.

- P R E S E N T -

THE HON'BLE JUSTICE SHRI D.N. BARUAH, VICE-CHAIRMAN
THE HON'BLE SHRI G.L. SANGLYINE, MEMBER(A)

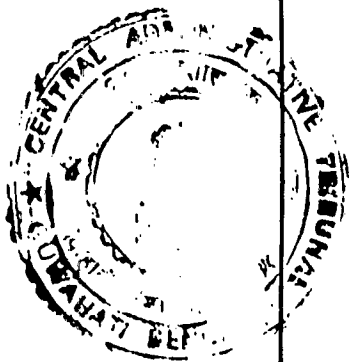
For the Applicant : Mr. B.K. Sharma, Mr. S. Sharma & Mr. D.K. Sarma, Advocates.

For the Respondents: Mr. B.C. Pathak, Addl. CGSC & Mr. K.N. Choudhury & Mr. P. Bhowmick, Advo

5.4.99

The present contempt petition has been filed against the alleged contemn-
ners for non compliance of the order
dated 24.9.97 passed in O.A.No.40/94.
The petitioner has alleged that in spite
of the submission of representations
in pursuance to the aforesaid judgment
and order the alleged contemnners had
not disposed of the representations.
Notices were sent to the alleged contem-
ners. Mr K.N.Choudhury, learned counsel
is appearing on behalf of both the
alleged contemnners. Objection has also
been filed. In the objection it has
been stated that the representations
were not filed and therefore the ques-
tion of disposing of the ^{same} would not arise.
Mr S.Sarma, learned counsel for the
petitioner, has not been able to prove
that actually the representation was
submitted. He informs this Tribunal
that the representation was sent by
registered post. He has not been able
to produce the A/D card or any receipt
from the postal department. In the
absence of such evidence there cannot

contd..



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C.P. 36/99

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Notes of the Registry	Date	Order of the Tribunal
	5.4.99	<p>be any contempt. Accordingly we direct the respondents to dispose of the representation, a copy of which has been filed with this contempt petition within a period of one month from today. A copy of the representation which was said to be sent to the respondents of the O.A. has been handed over to Mr K.N.Choudhury. We hope and trust that the representation will be disposed of within one month.</p> <p>With the above observation the contempt petition is closed.</p>

Sd/- VICE-CHAIRMAN

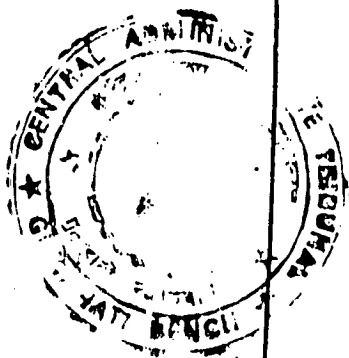
Sd/- MEMBER (ADMIN)

Certified to be true Copy
प्रमाणित प्रतिलिपि

[Signature]
12/4/99

Section Officer (J)
आयुक्त अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासिक न्यायालय
Guwahati Bench, Guwahati-6
गुवाहाटी बेंच, गुवाहाटी-6

[Signature]
12/4/99



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Annexure - 5
Registered A/D

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR Research complex for N.E.H. Region
UMIAM(PO), UMROI ROAD, MEGHALAYA

.....

No. RC(G).23/94

Dated the 1st May, 1999

From : Director,
ICAR Research complex.

To,

Smti. Maya Thapa,
So-called General Secretary,
ICAR Workers Union, Umiyam.

Sub : Disposal of representation/Implementation of
order dated 24.9.97 passed by OA No. 40/94
(Maya Thapa Vs Union of India & Ors)

Ref : Letter No. ICAR/WU/99/53 dated. 22.4.99
by Maya Thapa, General Secretary, ICAR Workers
Union, Umiyam.

In view of the Hon'ble Tribunal's verdict in the objection⁶ it has been stated that the representations were not filed and therefore the question of disposing of the same would not arise. Mr. S. Sharma, learned counsel for the petitioner, has not been able to prove that actually the representation was submitted. He informed this Tribunal that the representation was sent by registered post. He has not been able to produce the A/D card or any receipt from the postal department. In the absence of such evidence there cannot be any contempt. Accordingly we direct the respondents to dispose of the representation, a copy of which has been filed with this contempt petition within a period of one month from today. A copy of the representation which was said to be sent to the respondents of the O.A. has been handed over to Mr. K.N. Choudhary. We hope and trust that the representation will be disposed of within one month⁷, it is again reiterated that the representation in question was never submitted in the office of the undersigned, hence the question of its disposal does not arise at all.

...2

Attested
Ann. M. H.
(M. H. Nair)
delivered

3
- 31 -
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With regard to granting benefit to the applicant union, it had already been made clear more than once in the reply filed against legal notice of Shri.S.Garma that his clients had forfeited their rights to get benefit under both the schemes. (However, in the light of Hon'ble CAT's verdict dated 5.4.1999 Smti. Maya Thapa, General Secretary, ICAR Worker's Union, Udaipur is informed that the directives of the CAT/GHY verdict has been fully implemented and no injustice has been done to the working Temporary Status Mazdoors of ICAR Complex, Meghalaya and the representation alleged to have been filed on 10.2.1998 is accordingly disposed off.)

01/05/99
N.D.Verma
Director

Memo.No. R.(G)23/94.

Dated the 1st May, 1999

Copy to :-

- 1) Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati.
- 2) Shri.S.Sarma, Advocate, CAT, Guwahati.
- 3) Sri.K.N.Choudhury, Advocate, CAT, Guwahati.
- 4) Shri.S.R.Chauhan, Section Officer, Legal Cell, ICAR Krishi Bhawan, New Delhi.
- 5) DDG (IRM), ICAR, Krishi Bhawan, New Delhi.

Despatched NO-1493
dt 03-5-99

*Attended
Turi (m) 2
(U.K. Nair)
Advocate*

44
32-32-Annexure-6

I. C. A. R. WORKERS' UNION

Affiliated to AITUC

HEAD QUARTER UMIAM,
MEGHALAYA
Regd. No. 75

Ref No.

ALL INDIA TRADE UNION, NEW DELHI
REGD. NO. 1852

Dated 9/5.99

To

From

The Director,
I.C.A.R. Research Complex,
Umiam (PO) Umroi Road,
Barapani, Meghalaya,

Sub : Clarification of your Letter No. RC(G) 23/94 dt.1.5.99.
Sir,

With due reference and profound submission we beg to state the following lines seeking clarification of your letter mentioned above.

That we have received the aforesaid letter dated 1.5.99 but now it has become difficult for us to understand the what you have written. The direction of the Hon'ble Tribunal was for disposal of our representation but in the said order apart from the contention of the Hon'ble Tribunal's order there is hardly any thing in regard to disposal of our representation. In the said order there is no reason as to why we are not entitled to the benefits as has been described the office Memorandum dated 7th June, 1988. It is pertinent to mention here that when disposing the original application 40/94 the Hon'ble Tribunal gave a direction to you for consideration of our case in light of the said scheme, but in the disposal order mentioned above there is no material apart from the statement regarding disposal of our earlier representation which is quoted below :

"However, in the light of Hon'ble C.A.T.'s verdict dated 5.4.99, Smt. Maya Thapa, General Secretary ICAR, Worker's Union Umiam is informed that the directives of the CAT/GHY verdict has been fully implemented and no injustice has been done to the working temporary status mazdoors of ICAR Complex, Meghalaya and representation alleged to have been filed on 10.2.98 is accordingly disposed of.

.....2/-

- 33 -

I. C. A. R. WORKERS' UNION

Affiliated to AITUC

HEAD QUARTER UMIAM,

MEGHALAYA

Regd. No. 75

Ref No: TCAR/W.U/99/54

ALL INDIA TRADE UNION, NEW DELHI
REGD. NO. 1852

Dated 19/5/99

To

- 2 -

From

That it is noteworthy to mention here that in the order dated 24.9.97 passed in OA No. 40/94 there is a specific order from the Hon'ble Tribunal for passing a reason order within two months, but from the above mentioned order dated 1.5.99 there is no material as such for the aforesaid consideration of our case as per 1988 scheme as well as same is not a reasoned order at all. It is also very difficult for us to ascertain from the said order dated 1.5.99 as to why our claim has been rejected. And in the said order the address given is also not correct as there is no port folio like, so called General Secretary in our Union, however, in the body of the order correct address has been given as Maya Thapa, General Secretary, ICAR Worker's Union, Umiam.

In view of the above I, Smt. Maya Thapa, General Secretary, ICAR Worker's Union, Umiam, Meghalaya, praying on behalf of the Union members for a clarification of the aforesaid order dated 1.5.99 with a further prayer to grant us the benefits of the 1988 scheme.

Enclosed: ① Ready Reckoner of Entitlement. ② 1988 Scheme copy.

Copy to :

Yours faithfully,

1. Shri S. Sarma, Advocate,
CAT, Guwahati.
2. Shri S.R. Chakhan, Section
Officer, Legal Cell, ICAR,
Krishi Bhawan, New Delhi-1
3. The D.D.G (NRM),
ICAR, Krishi Bhawan, New Delhi-1

(Smt. Maya Thapa)
General Secretary,
ICAR Worker's Union.

..ooOoo..

(SMT. MAYA THAPA)

Enclosure = 1

HEAD QUARTER UMIAM,
MEGHALAYA
Regd. No. 75

Ref No: TCAR/W.u(99/54

Dated _____

To

From

- (a) Basic pay of Group - D for a month.
- + (b) Dearness allowance for work of 8 hours a day.
- + (c) Paid weekly off day after working 6 (six days) continuous work.
- + (d) Paid National Holidays.
- + (e) Upper age Relaxation.
- + (f) Post to be created for regularisation.
- + (g) H.R.A as per Grp-D scale.
- + (h) Compensatory Allowance as per Grp-D scale.
- + (i) G.P.F deduction after completion of 3 years of T.S.M.
- + , (j) Festival./ Flood Advance as per Grp-D scale.

M. J. Lopez

[Faint, illegible markings]

-35-

Annexure - 7

May 7/98
21/11/98

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.R. REGION
UMROI ROAD : UMIAM-793 103 : MEGHALAYA

RC(G)49/96

12/11/98.

To

The Under Secretary(S),
Indian Council of Agril. Research,
Krishi Bhawan, New Delhi.

Sub :-

Claim for arrear wages due for the period from
13.1.88 to April '90 to the Casual Labourers.

Ref :-

This Inett. letter No.RC(G)49/96 dtd. 3/1/98 &
reminder dtd. 21.7.98.

Sir,

I would like to inform you that the Temporary Mazdoors
of the Complex Hqrs Union are pressing hard for payment of their
arrear wages for the period from 13.1.88 to April '90 as per
Judgement of the Hon'ble Supreme Court on 28.2.90.

Therefore, I request you to kindly communicate
Council's decision to the Institute's letter of even number dated
3.1.98 (copy enclosed for ready reference) at the earliest for
further needful at this end.

Yours faithfully,

(M.J. KHARMAWPHLANG)
ADMINISTRATIVE OFFICER

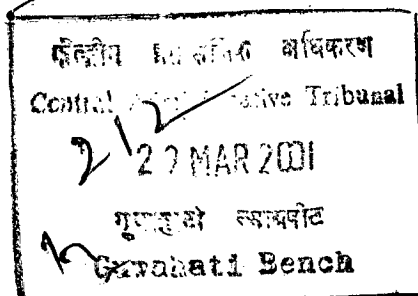
Copy to :-

1) The Director(P), ICAR, Krishi Bhawan, New Delhi-110001 alongwith
a copy of this Inett. letter of even number dtd. 3.1.98 and its
enclosure. This has a reference to this Inett. letter No. RC(G)
49/96 dtd. 16/9/96 & Council's letter P.No. 3-12/94-1A.V/II
dtd. 24.4.97 from Under Secretary(S) (copy enclosed) with a
request to kindly look in to the matter personally and communi-
cate Council's decision/orders please.

2) The F&AO/Sr. Farm Manager, ICAR,
Umiat.

10/11/98
(M.J. KHARMAWPHLANG)
ADMINISTRATIVE OFFICER

1.9.98



Filed by:
Bimal Chandra Sen
Advocate.
29-3-01-52

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH ::
AT GUWAHATI.

ORIGINAL APPLICATION NO. 88 / 2000

I.C.A.R. Worker's Union, Applicant.

- Versus -

Union of India & Ors. Respondents.

The Written Statement filed on behalf of the
Respondents No. 3 and 4 :-

- 1) That all the averments and submissions made in the Original Application are denied by the answering respondents save what has been specifically admitted herein and what appears from the records of the case.
- 2) That with regard to the statement made in paragraph 1 of the Original Application (hereinafter referred to as the O.A.) the answering respondents beg to state that to comply with the directions of the Hon'ble Tribunal dated 5.4.1999 in C.P. No. 36/98 arising out of O.A. No. 40/94 the letter dated 1.5.1999 was issued by the respondent No. 3, through which the representation of the petitioner filed with C.P. No. 36/98 was disposed

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2.

off. A corrigendum was also issued to letter dated 1.5.1999 vide No. RC(G) 23/99 dated 6.4.2000.

The application to draw up contempt proceedings against Shri N.D. Verma, Director, I.C.A.R. for NEH Region is uncalled for and misconceived, in as much as Shri M.D. Verma has not done anything in his personal capacity and all the actions were taken in due discharge of official duties as Director of the Institute.

A copy of the corrigendum dated 6.4.2000 is annexed hereto and is marked as Annexure- I.

3) That with regard to the statement made in paragraph 2 of the Original Application, the answering respondents have no comments to offer.

4) That with regard to the statement made in paragraph 3 of the O.A. the answering respondents beg to state that while disposing the O.A. No. 40/94 the applicants were given 3 weeks time to submit their representation to the authority, which they did not submit. However, while disposing the C.P. No. 36/98 on 5.4.1999, the Hon'ble Tribunal issued direction to dispose of the representation filed with C.P. No. 26/98 within one month and the same was disposed of on 1.5.99.

5) That with regard to the statement made in

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paragraph 4.1 of the O.A. the answering respondents beg to state that the so called I.C.A.R. Workers Union is not recognised by the Indian Council of Agricultural Research (I.C.A.R.), New Delhi. In the research organisation like I.C.A.R., there is a scheme of Joint Staff Council, Grievance Cell/Committee and Central Joint Staff Council at Council's Headquarters as well as I.C.A.R. Institutes for redressal of the grievances of staff members and thus formation of Union is not permitted. Further, the I.C.A.R. is an autonomous body registered under the Society Act, 1860. I.C.A.R. is fully financed by Govt. of India and following the rules and regulations framed by the Govt. of India Mutatis Mutandis. In this connection it would be relevant to refer to the Council's letter dated 2.12.1991 to the Institute.

A copy of the said letter dated 1.12.1991 is annexed hereto and is marked as Annexure-2.

6) That with regard to the statement made in paragraph 4.2 of the O.A. the answering respondents beg to state that it is not correct that 5 farm complexes were set up at various places within the State of Meghalaya. The authority of I.C.A.R. acquired land at Barapani in the year 1978- 79 and later on the establishment of I.C.A.R., Shillong was shifted to its permanent site in the year 1990 at Barapani (Meghalaya). The

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complex comprised of six sub.centres viz. Lembucherrah (Tripura), Gangtok (Sikkim), Basar (Arunachal Pradesh), Imphal (Manipur), Polasib (Mizoram), Jharnapani (Nagaland). The centre at Barapani in Meghalaya is the Headquarters of the complex for N.E.H. Region.

7) That with regard to the statement made in paragraph 4.3 of the O.A. the answering respondents beg to state that the Institute after its inception had engaged some casual labourers to do the various field operation mostly on seasonal basis on contract. They were required to attend the field work of casual nature. It is not correct that casual labourers were employed to perform the job of permanent nature or to perform similar nature of jobs performed by the regular Group D staff of the Institute.

The so called Union is unauthorised as it has not been recognised by the Council because the Council is already having the scheme of Institute Joint Staff Council for redressal of grievances of common interest and grievances cell for redressal of grievances of individuals. So formation of the above called Union is in violation of principles of research organisation.

8) That the answering respondents deny the

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correctness of the statement made in paragraph 4.4 of the O.A. and states that the allegation that the services of casual labourers were taken by the respondents on exploitative terms without being paid the minimum of the wages admissible to them is not correct. The payment of wages to those casual workers was always being done on the basis of the wages fixed by the State Govts. of India, whichever is higher. All the casual workers were allowed to avail weekly off after 6 days continuous working. The question of payment of D.A., Annual increment, pension, leave and regular monthly salary to the casual labourers engaged for seasonal works of intermittent nature that too on contract basis does not arise because casual labourers are not entitled for these benefits and, as such, there is no question of any discrimination. However, some of the above benefits have been extended to the casual workers after confirmation of Temporary Status w.e.f. 1.9.1993 as laid down in the Govt. of India's O.M. dated 10.8.1993.

9) That with regard to the statement made in paragraph 4.5 of the O.A. the answering respondents beg to state that the contention of the applicant Union that the I.C.A.R. Project is Classified under two heads viz. General Multiplication and farming system headed by two Managers is not correct. In fact there are many

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Projects / Schemes under this organisation headed by experts scientists of the relevant disciplines. The two farm Managers are to manage the research farm activities and to arrange all sorts of inputs including man power which includes casual workers also. Thus, the Farm Managers are directly involved in engagement of casual labourers, allocation of works to casual labourers/TSM and technical and supporting grade staff. As such, the averments of the applicant Union that the casual labourers were being engaged in technical works/ of regular nature is not correct. In fact there are many qualified and trained Farm and Field Technicians who attend technical works and casual labourers/TSM are being engaged to perform various field operation like cleaning of jungles, digging of plots, sowing of seeds, weeding, irrigating the plots and in harvesting and threshing operation etc. Besides there are many Class-IV, Group D Staff like Lab. Attendant, herbarium attendant, plant attendant etc, whose works are quite different as compared to casual labourers on contract basis. The contention of the Union is that due to continuous exploitation, daily rated casual workers joined together and formed the Union. However, as stated earlier there is no provisions under rules to recognise such Union under I.C.A.R. set up. In I.C.A.R. to redress the grievances and to raise the issues of common interest there

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is system of Grievances Cell and IJSC respectively, and thus, the union and unauthorised as far as research organisation like ICAR is concerned. Regarding then prayer for regularisation, it may be stated that when the OM dated 10.9.93 was received in the Institute, the proposal for confirmment of Temporary status to the casual labourers was sent to Council for approval and as soon as the approval was granted the Temporary status was conferred to eligible casual workers and all the benefits were also extended to them ~~benefits~~ and they are enjoying all these benefits. In view of the facts stated above the allegation that the I.C.A.R. Authority didnot pay heed to their problems is not correct. The further statement of the applicant about strikes and lockout at ICAR Complex at Shillong being not well founded, the correctness of the same are hereby denied.

10) That the answering respondents deny the correctness of the statement made in paragraph 4.6 of the O.A. as it is absolutely misconceived. It is not correct that the Management removed any worker or disallowed some workers to resume their duties after the order dated 12.1.1998 passed in O.A. No. 112/87 by this Hon'ble Tribunal. It is further stated that to comply with the above direction of the Hon'ble Tribunal the respondents published a public notice on 22.4.1990 and 23.4.1990 in local daily "Shillong Times" permitting the casual

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labourers to resume their duties. In the note of the said Notice, it was categorically mentioned that "the Institute however, will not be responsible if the applicants do not resume their duties within a period of one month from the date of publication of this Notice."

On publication of above public notice, the casual workers resumed their duties in the Institute and the casual workers who resumed their duties were also paid their arrear wages for the period w.e.f. 7.4.1986 to 12.1.1998 as per the Judgement of this Hon'ble Tribunal.

Copies of the Public Notice published in "Shillong Times" and sanction order of arrear wages are annexed hereto and are marked as Annexures - 3 and 4 respectively.

11) That with regard to the statement made in paragraph 4.7, 4.8 and 4.9 of the O.A. the answering respondents beg to state that after the aforesaid judgement not only the judicial approach of the Apex Court towards the problems of daily rated workers have undergone a change, but even the Govt. of India have issued Circulars in order to improve the lot of casual workers and to alleviate their sufferings. The I.C.A.R. management keeping in view the O.M. dated 10.9.1993

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extended the benefit of Circulars issued by the Govt. of India from time to time in respect of recruitment of eligible casual workers and further temporary status was conferred to the Casual Workers w.e.f. 1.9.1993 as per the O.M. dated 10.9.1993. It would thus be seen that the management is strictly adhering to the guidelines issued through the above O.Ms. dated 7.6.1988 and 10-9-1993.

12) That with regard to the statement made in paragraph 4.10 of the O.A. No. 40/94 was filed by Smt. Maya Thapa against Union of India and others on 9.3.94 whereas, the O.M. dated 10.9.1993 issued by the Govt. of India was endorsed to the I.C.A.R. Institute by the I.C.A.R. Headquarters vide letter No. 24(15)/93-CDN dated the 23rd November, 1994, and on receipt of the same, the benefit of the O.M. were extended to the eligible and entitled casual workers and temporary status was also conferred to the casual workers. Accordingly, the O.A. No. 40/94 was disposed of on 24.9.1997 by the Hon'ble Tribunal. In respect of O.M. dated 7.6.88, the same was endorsed to I.C.A.R. Institute vide letter No. 24(6)/88-CDN dated the 26th October, 1989 for implementation and during that period, the operation of the Judgement of Hon'ble Tribunal in O.A. No. 112/1987 delivered on 12.1.88 was suspended by the Hon'ble Supreme Court on 18.8.1988 in Civil Miscellaneous Petition No. 10332 of 1988. However, when

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the Hon'ble Supreme Court upheld the order of Hon'ble Tribunal rendered in OA No. 112/1987 in February, 1990, the order of the Hon'ble Tribunal were complied with by the respondents and further all the petitioners were permitted to resume their duties and the arrears of wages paid vide Annexures 3 and 4 of this Written Statement who resumed their duties within one month from the date of publication of Public Notice in local daily "Shillong Times".

As regards the claim of the applicants for extending the benefits under the 1988 OM, the directives of the Hon'ble Tribunal have been complied with vide letter No. RC(G) 23/94 dated 1.5.1999 while disposing the representation on the directives of the Hon'ble Tribunal contained in order dated 5.4.1999 within one month. However, the benefit of one paid weekly off after six days of continuous working was extended as per the provisions of Para IV of OM 1988. In this regard the letters dated 22.8.1994 and 2.9.1994 of the authority may be referred to. As regards extending of benefit of the provision of Para VIII and X of the OM dated 1988, the same could not be extended due to non-availability of posts for Group D cadre and for this council has been approached and as soon as the additional posts are sanctioned and created, the issue of extension of the said benefit will also be considered.

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Copies of aforesaid letters dated 23.11.94, 26.10.89, 22.8.94 and 2.9.94 are annexed herewith and are marked as Annexures - 5, 6, 7 and 8 respectively.

13) That with regard to the statement made in paragraph 4.11 of the O.A. the answering respondents beg to state that regarding representation dated 2.10.97 submitted by the applicants Union and filing of the C.P. No. 36/98 have been narrated by the Hon'ble Tribunal in the Judgement dated 5.4.1999 while disposing off the Contempt Petition. However, the Order dated 5.4.1999 has been complied with by the respondents vide letter No. RC(G) 23/94 dated 1.5.1999 and subsequent corrigendum issued vide R.C.(G) 23/94 dated 6.4.2000 to the letter dated 1.5.1999.

14) That with regard to the statement made in paragraph 4.12 of the O.A. the answering respondents beg to state that the applicant need not be surprised due to issuance of the letter dated 1.5.1999 stating therein about non-receipt of the representation within the stipulated period of 3 weeks as directed by this Hon'ble Tribunal vide order dated 24.9.1997. It was stated in the said letter that the right of the applicants to submit representation for consideration of their case

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stands automatically forfeited after expiry of 3 weeks for claiming the benefits under the aforesaid / two Schemes . This Hon'ble Tribunal specifically directed that if such a representation is filed within 3 weeks, the respondents shall consider the representation. Moreover, it has been established that the so-called representation did not reach the respondents and, as such, the question of its disposal by the respondents did not arise. However, in view of the Hon'ble Tribunal's order dated 5.4.1999 passed in C.P. No. 36/98, Smt. Maya Thapa, General Secretary of the so-called I.C.A.R. Workers Union was informed that the directions of the Hon'ble Tribunal has been fully implemented and no injustice has been done to the working temporary status Mazdoors of I.C.A.R., Complex Meghalaya and the representation alleged to have been filed on 10.2.1998 accordingly stands disposed of.

The respondents want to clarify the position, in as much as, beg to state that the representation dated 2.10.1997 stated to have been filed by the Petitioners with C.P. No. 36/1998 and a copy of which was furnished to the counsel for the respondents for disposal on 5.4.1999 was referred to a Committee, constituted by the respondent No. 2 (C.P. No. 36/98) on 16.4.1999 along with all relevant papers to examine/consider and advise the Director of the Institute in the matter of extending the benefits of OM dated 7.6.88 to the

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petitioners of O.A. No. 40/94 and to comply with the ~~xx~~ directions regarding disposal of the representation as directed vide order dated 5.4.1999. The Committee placed the findings before the Director of the Institute on 22.4.1999.

Copies of letter dated 16.4.1999 and the Report dated 22.4.1999 are annexed hereto and marked as Annexures - 9 and 10 respectively.

15) That the answering respondents deny the correctness of the statement made in paragraph 4.13 as it is absolutely misconceived. The claim of the applicants for extending the benefits of 1988 O.M. have been found that the benefits as per provisions laid down in the guidelines have already been extended to the applicants in O.A. No. 40/94. Only regularisation against the regular Group D Cadre posts could not be done due to non-availability of the regular sanctioned posts in Group D Cadre for which the proposal of respondent No. 2 is still pending with the Ministry of Finance. So, the prayer of the applicants to draw up a Contempt of Court proceeding against the Respondent No. 4 is uncalled and unjustified, specially when the representation has been disposed of by the respondent No. 4 as directed by the Hon'ble Tribunal and it has been established

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that the applicants have already been extended the benefits of the provision laid down in the guidelines of the OM dated 7.6.1988.

16) That with regard to the statement made in paragraph 4.14 of the O.A. the answering respondents to not feel the necessity to clarify the contents of their letter dated 1.5.1999 as the contents of the letter were very much clear.

17) That with regard to the statements made in paragraph 4.15 of the O.A. the answering respondents contention regarding forfeiting the rights of the applicants to submit the representation for consideration of their claims under both the Schemes was because of the fact that the applicants did not submit their representation within 3 weeks from 24.9.1997 fixed by the Hon'ble Tribunal. However, when the Hon'ble Tribunal vide order dated 5.4.1999 directed the respondents to dispose of the representation (Annexure - C to C.P. No. 36/1998) within one month, the respondent No. 2 honouring the directions of the Hon'ble Tribunal constituted a committee on 16.4.1999, regarding extending the benefits of 1988 OM of Govt. of India. On perusal of the Committee's report it is clear that the applicants were not deprived of the benefits of the said scheme of 1988. Rather the Institute has already extended the benefits of the provisions laid down in the guidelines

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vide para I (V), (VI), & (VII). The management of ICAR has not exercised any option in implementing any scheme framed by the Government and has implemented all the schemes pertaining to the casual workers without any hesitation. But the benefits of the provisions of guidelines contained in para I (VIII) & (X) could not be extended to the casual workers due to non-availability of regular sanctioned posts under Group-D cadre. The proposal of respondent no. 2 for sanctioning of additional regular Group-D cadre post to regularise the casual/ Ministry of Finance at New Delhi. And as soon as the approval is received, the benefits of provision of these guidelines will be considered. The respondent no. 3 is not competent to regularise the service of casual workers without the regular sanctioned posts in Group-D cadre, as he can only send proposals to the competent authority at ICAR Headquarters, New Delhi, to create the posts to regularise the casual workers/TSM. It is denied by the respondents that they are exploiting the casual workers or there are instances of non payment of their wages. Thus it is evident that the benefits of various schemes of Govt. of India pertaining to casual workers were always excluded by the authority. The judgement passed in OA no. 112/87 was fully implemented and the labourers are taken to their duties as directed by the Hon'ble Tribunal and the arrear were also paid. It is not correct that the authority kept waiting

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over the matter till filing of the OA No. 40/94. But the fact is that OA No. 40/94 was filed on 9.3.94. However the OM dated 10.9.93 was endorsed to the ICAR Institute by the Council vide their letter dated 23.11.94. The Institute had already extended the benefit of provisions laid down in the OM dated 7.6.88 as pointed out above.

18. That the answering respondents deny the correctness of the statement made in paragraph 4.16 of the OA as it is absolutely misconceived. It is denied that the applicants were deprived of their benefits under the scheme 1988, as all the permissible benefits were extended to them. The applicants were also extended the benefit of OM dated 10.9.93 and were granted temporary status w.e.f. 1.9.93 and after their confinement of temporary status they have been extended all their entitlement as laid down in appendix under item 5 (i - VII)

19. That with regard to the statement made in paragraph 4.17 of the OA the answering respondents accept that the applicants are entitled to the benefits covered under OM dated 7.6.1988 issued by Govt. of India and the same were made applicable to them and all possible and permissible benefits were extended to them. As per provision of OM dated 7.6.88 the casual workers are not entitled to any leave except a National Holiday and are paid weekly off after six days of continuous work. Since

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the work assigned and done by the casual workers were different from the work done by a regular employee, the casual workers were paid only the minimum wages notified by the Ministry of Labour of the State Govt./Union Territory whichever is higher as per the Minimum Wages Act 1948. The payment to the casual workers was restricted only to the days on which they actually performed duty with a paid weekly of on six days continuous work over and above the 8 hours per day work as fixed for casual workers and as such there is no question of payment of over-time to them without any extra duty.

20. That with regard to the statement made in paragraph 4.18 of the OA the answering respondents accept that from June 1988 the provisions of the OM dated 7.6.88 of Govt. of India was holding the field, that is why the respondents have extended the benefit of that scheme to the casual workers. As stated above the respondents have already made it clear that the 1993 scheme which was made effective w.e.f. 1.9.93 was endorsed by the council to the ICAR Institute vide their letter dated 23.11.94 whereas, the OA No. 40/94 was filed on 9.3.94 claiming the benefits under the 1988 scheme. However by the order dated 24.9.97 passed in OA No. 40/94 the respondents were directed to consider granting of the benefits under the 1988 scheme and the applicants were also directed to submit their representation indicating their their claim within 3 weeks, but as pointed out above

contd...

no representation was submitted for disposal within 2 months. However, the applicants preferred to file the contempt petition no. 36/98 and the same was disposed off by the order dated 5.4.99 with the direction to dispose of the representation within 1 month. On receipt of the judgement the respondent no. 2 constituted a committee on 16.4.99 to examine and advise the respondent no. 3 regarding extending the benefite of 1988 OM issued by the Govt. of India. The committee submitted its finding on 22.4.99 to the respondent no. 3. Thus the action of the respondent no. 3 and 4 in no way can be termed as arbitrary, illegal and contemptuous. There is no melaticee and colourable exercise of power as alleged by the applicants. The letter dated 1.5.99 issued by the respondent no. 4 was in compliance of the directives issued by the Hon'ble Tribunal passed in CP 36/98 on 5.4.99 responding extending the benefits of 1988 scheme to the applicants. Since the benefit under the OM dated 7.6.88 were already extended to the applicants the directives of the Hon'ble Tribunal has been fully implemented and no injustice has been done to the working Temporary status Majdoor of ICAR and the representation allegedly to have been filed on 10.2.98 was also disposed of according later on a corrigendum dated 6.4.2000 was issued correcting the date of the representation from

contd...

10.2.98 to ~~12~~ 2.10.97. Therefore, the representation is dated 2.10.97.

21. That with regard to the statement made in paragraph 4.19 of the OA the answering respondents have no comment to offer.

22. That with regard to the statement made in paragraph 4.20 of the OA the answering respondents beg to state that on verification of the records it was found that the respondents had replied to the letter dated 22.4.99. The letter was covered in the disposal action done by the respondents with regard to the representation in CP 36/98.

23. That under the facts and circumstances stated above it is respectfully submitted that the challenge in the Original Application is devoid of any merit and the same is liable to be dismissed with cost.

VERIFICATION...

V E R I F I C A T I O N

I, Dr. Narendra Deo Verma, Son of Munilal Verma, aged about 57 years, presently working as Director, I.C.A.R., Research Complex for NEH Region do hereby verify that the statements made in paragraphs 1, 3, 4, 6, 7, 8, 9, 11, 13 and 15 to 22 of the Written Statement are true to my personal knowledge and those made in paragraphs 2, 5, 10, 12 and 14 are true to my information derived from records and the rest are my humble submissions.

And I sign this verification on this the 29th day of March, 2001 at Guwahati.

Narendra Deo Verma

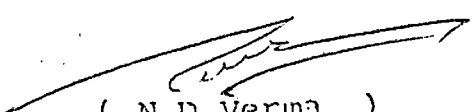
निदेशक/Director,
 ए. ई. अ. व. /ICAR
 ए. ई. अ. व. कृषि अनुसंधान केंद्र,
 Research Complex for NEH
 Guwahati-781005

No.RC(G)23/99

-21-
56 8
Dated the 6th April, 2000

CORRIGENDUM

The date of annexed representation i.e. 10.2.1998 which has appeared inadvertently in last line of letter No.RC(G)23/99 dated the 1st May, 1999 written by this office to Smti. Maya Thapa, General Secretary, ICAR, Workers Union, Umiyam, may please be read as "2.10.1997" (Annexure 'C' of CP 36/98 in OA No. 40/94 filed by Smti. Maya Thapa against UCI & Others). The other contents of the letter remains unchanged.


(N.D. Verma)
Director

Copy to :-

- 1) Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati.
- 2) Shri. S. S. Sharma, Advocate, CAT, Guwahati.
- 3) Shri. K. N. Choudhary, Advocate, CAT, Guwahati.
- 4) Shri. S. R. Chauhan, Section Officer, Legal Cell, ICAR, Krishi-Bhawan, New Delhi.
- 5) DDG(NRM), ICAR, Krishi Bhawan, New Delhi.
- 6) Legal Cell.

ANNEXURE - 2

Dated the November, 1991
21/10/91

Dr. R.M. Prasad,
Director
ICAR Research Complex for NEH region
Umroi Road, Barapani-793103.

Sir,

Sir,

With reference to your letter No. HC(G)25/91 dated the 10th May 1991 on the subject cited above, I am to say that there is a scheme of Jt. Staff Council Grievance Cell/Committee and C.J.S.C. at the Council's headquarters as well as at ICAR Institutes for redressal of the grievances of staff members. Moreover formation of unions is not permitted under Govt. of India and as such there is no question to recognise any union.

Yours faithfully

(VIDHYA BHUSHAN)
BY. DIRECTOR (V)

11/11
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 1/4/12

Bank Trophy

lory. One such move got the match winning A. Roy Choudhury cutting in flank out-ouevred a few defen- and sent a perfect to Sandip Munshi made no mistake in ing the ball into the net. After taking the lead in the 10th mi- of the match the UBI's got quite a few chan- to increase their lead some erratic shooting brilliant goalkeeping Chakravarty preven- them from doing so. hree minutes after the breather, A. Mitra of Bank got a golden rtunity to level the but his shot from de the box missed t a r g e e by s. The match was ed by some rough as two yellow cards shown by the referee. he Meghalaya Minister orts and Youth Affairs Donkumar Lyngdoh away the prizes. The ay trophy went to b National Bank. The alaya Speaker, P. R. lah and the President o Shillong Sports Asso n, Mr. G. M. War among others pre- on the occasion. he Team, United Bank dia, Tanumoy Bose al, Swapun Saha Roy hosh, S. Das, Partha U. Biswas, S.S. Chou , B. Das Gupta, Si- Ghosh, Sandip Mun- A Roy Choudhury k Sarkar

Women's Cricket Held At Tura

(By Our Reporter)

In a festival cricket match for girls, organised by the Tura Rongali Bihu Committee in Tura recently, Cherry Team beat Blossom Team by 5 wickets. Batting first Blossom team were bowled out for a paltry 63 runs, Riche- lle Morin top scored with 19 while Nancy Sangma was the most successful bowler capturing 7 wickets for 18 runs.

Cherry team requiring 64 runs for victory reached their target with five wickets to spare. Mr P. Sai- kia, Secretary of Tura Rongali Bihu Sports Commit- tee gave away the prizes and certificates to the pla- yers of the participating teams.

INDIAN COUNCIL OF AGRICULTURAL RESEARCH ICAR RESEARCH COMPLEX FOR N.E.H. REGION UMROI ROAD, BARAPANI

NOTICE

In pursuance of the verdict of Hon'ble Supreme Court of India, dated 28/2/90 in the special leave of Appeal (Civil) Case No. 5159 of 1988, between Director, ICAR Complex and Others Vs Devlall Sharma and Others and the verdict of the Hon'ble Central Administrative Tribunal, Gauhati in G. C No. 112 of 1987, between Devlall Sharma and Others, the petitioners of G. C. No. 112 hereby informed that they will be allowed to resume du- ties with immediate effect without any undertaking to be executed by them. On resumption of their duties, the petitioners will be deemed to be in continuous service since the date (i.e. 2.4.1986) they were not allowed to resume their duties with all service benefits. The arrears of the wages payable to them are being worked out and the same will be paid soon after getting the funds from the ICAR, New Delhi. They are to report for duty to the Sr. Farm Manager, Barapani within one month from the date of publication of this notice.

Note: The Institute, however, will not be respon- sible if the petitioners do not resume their duties within a period of one month from publication of this notice,

21-4-90

Sd/- R. N. Prasad
Director

MEGHALAYA KHADI AND VILLAGE INDUSTRIES BOARD TEMPLE ROAD LOWER LACHUMIERE SHILLONG : 793001 PHONE NO : 236557

No. MRB/TRC/PMP/90-91/73

Dt. 18-4-1990

The Meghalaya Khadi and Village Industries Board Shillong, is sponsoring candidates to undergo Training Centre of Village Industries Commission, Abhay, Ashram Campus, Birati Calcutta 7000051 during the month mentioned as below —

Sl. No.	Name of the Course	Duration	Date of Com- mencement
1.	Laundry Soap	5 Months	28-8-1990
2.	Individual Entrepreneur in Laundry Soap	3 Months	28-8-1990

No. RC(G)22/87 (Part) Dated Barapani, the 21st Nov. '90.

ORDER

In supersession of this Office Order No. RC(G)22/87 (Part), dated 13.9.90, sanction of the Director is conveyed to incur an expenditure not exceeding to Rs.9,00,031/- (Rupee nine lakhs eightyeight thousand and thirtyone) only for payment of arrears wages to 157 casual labourers (petitioners) as per judgement of the Hon'ble Central Administrative Tribunal, Guwahati dated 12.1.88 in LC 112 of 1987 for the period from 7.4.86 to 12.1.88.

The expenditure is debitable to the head, "4 Farm/Garden Contingencies 1. Wages of Farm Labourers" of the Complex Hqrs. for the year 1990-91 (Non-Plan).

(S. Saha)
Administrative Officer

Copy for information and necessary action to:-

1. The Finance & Accounts Officer, ICAR Research Complex for N.E.H. Region, Barapani. This refers to his endorsement dated 17.11.90.
2. The Asstt. Administrative Officer (Enstt.), ICAR Research Complex for N.E.H. Region, Barapani along with the bill extract for Rs.9,00,031/- received from Accounts Section.
3. The Sr. Farm Manager, ICAR Research Complex for N.E.H. Region, Barapani.

Unk
24.6.93

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN: NEW DELHI-11F.No. 24(15)/93-CDN
24(15)/93-CDN

Dated the 23rd November, 1994.

To

All the Directors/Project Directors of ICAR Institutes/
Directorates/NRCS.Subject: Grant of temporary status and regularisation of
Casual Workers - Adoption of scheme formulated by
Department of Personnel & Training - reg.

Sir,

The question of adoption of the scheme issued by the Government of India, Ministry of Personnel, P.C. and pensions Department of Personnel & Training vide their O.M.No. 51016/2/90-Estt.(C) dated the 10th September, 1993 on the subject mentioned above have been under consideration in the Council for some time. It has now been decided with the approval of the competent authority to adopt this scheme in respect of the casual workers engaged by the ICAR Institutes w.e.f. 1.9.93. A copy of the scheme is enclosed herewith for information/guidance and necessary action.

The grant of temporary status to the casual labours may be regulated strictly in accordance with this scheme and it may be ensured that the temporary status is granted only to casual labourers who are eligible in accordance with these guidelines. The additional financial liability on this account is to be met from within the existing budgetary provision of the respective institutes and no additional funds for the purpose will be provided.

In case of any doubt regarding the eligibility of the casual labours for grant of temporary status in accordance with the scheme a reference may be made to the concerned SMD at the headquarter for final orders.

Yours faithfully,

(K. K. RAJPAI)
DEPUTY SECRETARY

1. All D.E.C.'s, ICAR./Director(Finance)
2. Deputy Secretary(I) 3. Deputy Secretary(IA-P)
4. Under Secretary (D) 5. Under Secretary(N)
6. Under Secretary(J) 7. All I.R. Sections, ICAR.
8. Per.IV Section, ICAR 9. I.F. Section, ICAR
10. Budget Section.

Copy for information to P.Ss. to D.C./Secretary/H.(D&RE)

DEPUTY SECRETARY

//COPY//

No.51016/2/90-Estt(C)

Government of India

Ministry of Personnel, P.C. & Pensions

Department of personnel & Training

.....

New Delhi, the 10th Sept., 1993.

OFFICE MEMORANDUM

Subject: Grant of temporary status and regularisation of Casual Workers - formulation of a scheme in pursuance of the CAT, Principal Bench, New Delhi, judgement dated 16th Feb., 1990 in the case of Shri Raj Kamal & Others vs. UOI.

.....

The guidelines in the matter of recruitment of persons on daily wage basis in Central Government offices were issued vide this Department's O.M.No.49014/2/86-Estt(C) dated 7.6.88. The policy has further been reviewed in the light of the judgement of the CAT, Principal Bench, New Delhi delivered on 16.2.90 in the writ petition filed by Shri Raj Kamal and others vs Union of India and it has been decided that while the existing guidelines contained in O.M. dated 7.6.88 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Government offices other than Department of Telecom, posts and Railways may be regulated by the scheme as appended.

2. Ministry of Finance etc. are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in O.M. dated 7.6.88. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

Sd/-
(Y.G. PARANDE)
DIRECTOR

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(GEC)

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APPENDIX

Department of Personnel & Training, Casual Labourers
(Grant of Temporary Status and Regularisation) Scheme

1. This Scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993".
2. This scheme will come into force w.e.f. 1.9.1993.
3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.

4. Temporary status

- i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
- ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'p' posts.
- iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.
- iv) ✓ Such casual labourers who acquire temporary status will not however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'p' posts.

✓ 5. Temporary status would entitle the casual labourers to the following benefits:-

- ✓ 1) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'p' official including DA, HRA and CCA.

contd...2/-

- ii) Benefits of increments at the same rate as applicable to a Group D employee would be taken into account for calculating pro-rata wages for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.
- iii) Leave entitlement will be on a pro-rata basis at the rate of one day for every 10 days of work, casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.
- iv) Maternity leave to lady casual labourers as admissible to regular Group D employees will be allowed.
- v) 50% of the service rendered under temporary status would be counted for the purpose of retirement benefits after their regularisation.
- vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group D employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group D employees, provided they furnish two sureties from permanent Govt. servants of their Department.
- vii) Until they are regularised, they would be entitled to ad-hoc bonus only at the rates as applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in Industrial establishments in view of provisions of Industrial Dispute Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

Contd...3/-

6. Procedure for filling up of Group D posts

- 1) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel & Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.
9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.
10. In future, the guidelines as contained in this Department's O.M. dated 7.6.88 should be followed strictly in the matter of engagement of casual employees in Central Government Offices.
11. Department of Personnel & Training will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time.

//COPY//
BARTIL KISHI NUSANDH LARISH D
(INDIAN COUNCIL OF AGRICULTURE RESEARCH)
KRISHI BH.VAN: NEW DELHI 110 001

ANNEXURE-6

65-70-30-

F.No. 24(6)/88-CIA

Dated the 20th October, 1989

To

All Directors of the ICAR Research Institutes.

Subject: Guidelines relating to the appointment to the casual workers in the ICAR Institutes - Payment of higher rates of wages to the casual workers - decision regarding -

Sir,

In continuation of the Council's letter of even number dated the 16th December, 1988, it has been decided by the ICAR that the casual workers working at the Institutes/ICAR Headquarters may be paid higher rates of wages w.e.f. 7.6.1988 as per orders of the Department of Personnel and Training's O.M.No. 49014/2/86-Estt(C) dated the 7th June, 1988 (copy enclosed).

It is also requested that the results of the review as per directions of the Department of Personnel and Training may be intimated to the Council immediately by 20.11.1989 positively.

Yours faithfully,

SD/-

(KISHORI LAL)
DEPUTY SECRETARY (R&C)

Copy to:-

1. Deputy Secretary(A), ICAR/Under Secretary(A), ICAR
2. Caretaker Unit, I.C.A.R./Genl. adm. Section, ICAR/
Establishment-III Section, ICAR.
3. Spare Copies (50).

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F.No.4901
Government of India
Ministry of Personnel, Public Grievances and Pension
Department of Personnel and Training

North Block, New Delhi-110001
Dated, the 7th June, 1988.

OFFICE MEMORANDUM

Subject: Recruitment of casual workers and persons on daily wages.
Review of policy.

The policy regarding engagement of casual workers in Central Government Offices has been reviewed by Government keeping in view the judgement of the Supreme Court delivered on the 17th January, 1986, in the Writ Petition filed by Shri Surinder Singh and other vs. Union of India and it has been decided to lay down the following guidelines in the matter of recruitment of casual workers on daily wage basis:

- (i) Persons on daily wages should not be recruited for work of regular nature.
- (ii) Recruitment of daily wagers may be made only for work which is of casual or seasonal or intermittent nature or for work which is not of full time nature, for which regular posts cannot be created.
- (iii) The work presently being done by regular staff should be reassessed by the administrative departments concerned for output and productivity so that the work being done by the casual workers could be entrusted to the regular employees. The Departments may also review the norms of staff for regular work and take steps to get them revised, if considered necessary.
- (iv) Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day.
- (v) In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worker may be paid only the minimum wages notified by the Ministry of Labour or the State Government/Union Territory Administration, whichever is higher, as per the Minimum Wages Act, 1948. However, if a Department is already paying daily wages at a higher rate, the practice could be continued with the approval of its Financial Adviser.

(vi) ✓ The casual workers may be given no paid weekly off after six days of continuous work.

(vii) ✓ The payment to the casual workers may be restricted only to the days on which they actually perform duty under the Government with a paid weekly off as mentioned at (vi) above. They will, however, in addition, be paid for a National Holiday, if it falls on a working day for the casual workers.

(viii) In cases where it is not possible to entrust all the items of work now being handled by the casual workers to the existing regular staff, additional regular posts may be created to the barest minimum necessary, with the concurrence of the Ministry of Finance.

(ix) ✓ Where work of more than one type is to be performed throughout the year but each type of work does not justify a separate regular employee, a multifunctional post may be created for handling those items of work with the concurrence of the Ministry of Finance.

(x) ✓ The regularisation of the services of the casual workers will continue to be governed by the instructions issued by this Department in this regard. While considering such regularisation, a casual worker may be given relaxation in the upper age limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age limit for the relevant post.

(xi) ✓ If a Department wants to make any departure from the above guidelines, it should obtain the prior concurrence of the Ministry of Finance and the Department of Personnel and Training.

All the administrative Ministries/Departments should undertake a review of appointment of casual workers in the offices under their control on a time-bound basis so that at the end of the prescribed period, the following targets are achieved:

- (a) All eligible casual workers are adjusted against regular posts to the extent such regular posts are justified.
- (b) The rest of the casual workers not covered by (a) above and whose retention is considered absolutely necessary and is in accordance with the guidelines, are paid emoluments strictly in accordance with the guidelines.
- (c) The remaining casual workers not covered by (a) and (b) above are discharged from service.

2. The following time limit for completing the review has been prescribed in respect of the various Ministries/Departments:

- | | |
|--|----------|
| (a) Ministry of Railways | 2 years |
| (b) Department of Posts, Department of Telecommunications and Department of Defence Production | 1 Year |
| (c) All other Ministries/Departments/Offices | 6 months |

Each Ministry should furnish a quarterly statement indicating the progress of the review in respect of the Ministry (proper) and all Attached/Subordinate offices under them to the Department of Personnel and Training in the proforma attached. The first quarterly return should be furnished to this Department by the 10th October, 1988.

3. By strict and meticulous observance of the guidelines by all Ministries/Departments, it should be ensured that there is no more engagement of casual workers for attending to work of a regular nature, particularly after the review envisaged above is duly completed. Each Head of Office should also nominate an officer who would scrutinise the engagement of each and every casual worker and the job for which he is being employed to determine whether the work is of casual nature or not.

4. Ministry of Finance etc. are requested to bring the contents of this Office Memorandum to the notice of all the appointing authorities under their respective administrative control for strict observance. Cases of negligence in the matter of implementing these guidelines should be viewed very seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters.

sd/-

(D.P. DECH)

JOINT SECRETARY TO THE GOVT. OF INDIA.

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Quarterly Statement showing the progress made in
the review carried out by various Ministries
etc. about the casual workers engaged by them.
.....

- (1) Name of Ministry/Department
- (2) No. of casual workers engaged
as on 1.6.1988
 - a) in the Ministry proper
 - b) Attached & subordinate offices

Total

- (3) No. of casual workers who have been given
regular appointment as a result of review.
- (4) No. of casual workers whose services have been
discontinued.
- (5) No. of casual workers whose services have been
retained at the end of quarter - (July-
September, 1988, October to December, 1988
etc.)

Note: The first return for the quarter July, 1988 to
September, 1988 should be furnished by the 10th October,
1988. Similarly subsequent returns should be
furnished by the 10th of the month following the quarter.

ICAR

ANNEXURE - 7 - 35 -

Dt 12compart the
22nd August/94

NO. (BAR) FM-1/92-93

To

The Administrative Officer.

I.C.A.R. Munni Road Bannagan.

Sub - Payment on weekly day of Rest

P.64/c Ref: M-RE(4) 53/93

Dt Bannagan the
19th August/94.

Sir,

With reference to your letter no mentioned above

I am to inform you that the labourers were
paid holiday as rest day w.e. for September 1985

to June 1987 and from July 1987 to February 1992

one group of labourers were under contract, and

this group those who joined resumed duties
w.e. from April 1990 the benefit was discontinued

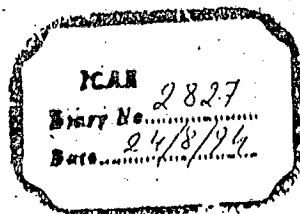
and for rest day to April 1990.

This is for your information & action.

Yours faithfully,

[Signature]
N.R. Das
Sr. Farm Manager
22/8/94

[Signature]
Pl. put up accordingly
[Signature]
23/8/94



INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N. E. H. REGION
UMROI ROAD : BARAPANI-793 103.

NO. RC(G) 53/93

Dated Barapani, the 2nd September, 1994.

To

The Senior Farm Managers
ICAR Research Complex for NEH Region,
Umroi Road, Barapani.

Sub :-

Payment of labour wages for the unpaid weekly
rest days like Sundays, Holidays etc. to the
Casual Workers on Muster Roll basis.

Sir,

In pursuance of the letter No. LBG/21/93/79
dt. 8.8.94 received from the Deputy Secretary to the Govt.
of Meghalaya, Labour Department (copy enclosed) and in reference
to your letter No. RC(BAR) FM-1/92-93 dt. 22.8.94, I am directed
to convey the approval of the Competent Authority for payment
of wages to the casual workers working on Muster Roll-basis for
weekly off rest days (Sundays/Holidays) if not paid earlier
w. e. f. 1st January, 1994.

Yours faithfully,

(I.K. SHARMA)
ADMINISTRATIVE OFFICER

Copy to :- The Finance & Accounts Officer, ICAR Res. Complex
for NEH Region, Barapani for information and necessary
action. This has a ref. to his endt. dated. 31.8.94.

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ANNEXURE-9 - 37-

To comply with the direction of the Hon'ble C.A.T., Guwahati Bench, Guwahati dated 05.04.1999 in C.P. 36/09 (arising out of OA No. 40/94 filed by Smti. Maya Thapa so called General Secretary, ICAR workers Union, Umiam against UOI & Others) which reads as under :-

" Accordingly, we direct the respondents to dispose off the representation, a copy of which has been filed with the contempt petition, within a period of one month from today. A copy of the representation which was said to be sent to the respondents of the O.A. has been handedover to Mr.K.N.Choudhary. We hope and trust that the representation will be disposed off within one month. With the above observation the contempt petition is closed".

the undersigned i.e. the respondent No.2 in C.P.36/98 hereby constitute a committee, with the following members to examine/consider and advice the undersigned regarding extending the benefits of 1988 O.M. of Govt of India to the petitioner of O.A.No.40/94, to dispose of the representation as directed by the Hon'ble C.A.T., Guwahati Bench, Guwahati.

...Noted..7

Note Sheet

Contd... from Page N/6

Dr.S.K.Gupta, Chairman
Dr.Narendra Prakash....Member
Shri.G.Sinha, AAO(Admn)...Member-Secy

The committee should submit its findings/recommendations/observations to the undersigned latest by 23rd April, 1999 positively to enable the undersigned to dispose off the representation within the stipulated time limit as fixed by the Hon'ble CAT, Guwahati. The AAO(Admn)-Member-Secretary is directed to make available all the relevant documents to the committee and extend all sorts of help/advice in finding out the facts.

1/10/99 / S.K. Gupta
Chairman

16/04/99

As scheduled, the committee met again today i.e. on 22.4.1999 at 1100 hrs in the Committee Room of Administration Block and examined the relevant records, documents and representation in question. After examining the all relevant records, rules on the subject and memorandum issued by G.O.I. in 1988 and 1993, the Committee reached to the following conclusion:-

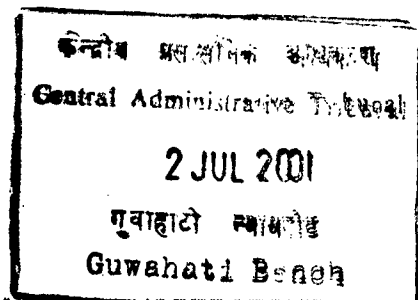
- That the guidelines of item 1 para (i), (ii) (iii) and (xi) on dated 7.6.1988 of GOI, all the directions to the department to follow, while recruiting/engaging and regularising the casual workers.
- That there is no case in the Institute as per the available records to be considered under the provisions of guideline of para(iv) and (ix).
- That the benefits of provisions under guidelines of para (v), (vi) and (vii) have already been extended to the casual workers.
- That the benefits of the provisions under guidelines of para (viii) & (x) could not be extended to the casual workers/TSM due to non-availability of the regular sanctioned posts under Group - D cadre. The proposal for sanction of additional posts of Group - D cadre of the Institute is still pending with the Council/Ministry of Finance. As soon as approved is received, the benefits under these guidelines may be considered.

In view of the aforesaid facts, it is stated that the Institute has already extended the benefits of the provisions under O.M. dated 7.6.1988. Regarding regularisation of casual workers/TSM due to the facts mentioned above, the requests of the petitioners could not be acceded to because of the non-availability of the regular sanctioned posts of Group - D cadre at present.

Director
Legal cell
for n.a. pl.
22/4/99
G. Sinha
AAO (Admin.)
Member

(N. Prakash)
Scientist (Sr. Sc.)
Member

(S.K. Gupta)
Principal Scientist
Chairman



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed by
Usha Das
Advocate
2/7/2001

OA No. 88/2000

ICAR Workers Union

-vs-

Union of India & Ors.

Rejoinder to the written statement filed by
the respondents.

1. That the applicant has received the copy of the written statement and has gone through the same. Save and except the statement which are not specifically admitted hereinbelow may be treated as total denial.
2. That with regard to the statements made in paragraph 1 of the written statement the applicant denies the correctness of the same.
3. That with regard to the statement made in paragraph 2 of the written statement the applicant denies the correctness of the same and begs to state that the order dated 1.5.99 is illegal, arbitrary and violative the direction issued by this Hon'ble Tribunal. The applicant also denies the correctness of the later part of the aforesaid paragraph 2.
4. That with regard to the statement made in paragraph 3 of the written statement the applicant offers no comment on it.
5. That with regard to the statement made in paragraph 4 of the written statement the applicant denies the correctness of the same and begs to state that the respondents have illegally and arbitrarily has deprived the benefit of of both the schemes to the members of the present applicant.
6. That with regard to the statement made in paragraph 5

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of the written statement the applicant denies the correctness of the same and begs to state that since the matter has been adjudicated upon by the Hon'ble High Court and now by filing the pursuant written statement, the respondents cannot re-open the matter.

7. That with regard to the statement made in paragraph 6 of the written statement the applicant offers no comment on it, however, the respondents are put to the strictest proof thereof.

8. That with regard to the statement made in paragraph 7 of the written statement the applicant begs to state that after inception of ICAR the respondents have engaged the Union members of the present applicant Union as casual worker. Although they were treated as casual workers, but in fact, they have been treated as regular employees. The applicant's Union was formed after consultation of the rules guiding the field. There is no illegality and violation of any statutory provision in forming the Union for bonafide redressal of the grievances of their members.

9. That with regard to the statement made in paragraph 8 of the written statement the applicant begs to state that the benefit of temporary status in the light of the 1993 scheme only during the pendency of OA 40/94 and to avoid contempt proceeding against the respondents. However, taking into consideration the date of initial entry of the said members of the Union, they are entitled to get the benefit conferred under various schemes including the OM dated 7.6.88. The applicants are also entitled to get arrear of pay for the period with effect from 13.1.88 to April 1990.

10. That with regard to the statement made in paragraph 9 of the written statement the applicant denies the correctness of the same and begs to state that admittedly the firm managers

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engaged the members of the applicant Union and allotted the work which are technical in nature. The respondents have admitted the fact that the members of the applicant Union has been granted the work of skilled nature. The present casual labourers who are being represented by the applicant union are being engaged as supporting staff (SS grade) to assist the technical staff. So far as the statement regarding formation of union the applicant denies the correctness of the same.

It is a fact that the benefit under the OM dated 10.9.93 (only temporary status) has been extended to some of the members of the applicant union but other the benefits of the schemes of 1988 and 1993 wherein the Central Govt. has extended the benefit of the Apex Court judgement delivered in Surinder Singh and Ors. vs. U.O.I. Admittedly the members of the applicant Union are also similarly situated like that of the applicant in the said Apex Court case, and they are entitled to similar benefit.

11. That with regard to the statement made in paragraph 10 of the written statement the applicant begs to state that after the judgement and order dated 12.1.88 passed in OA No.112/87 by this Hon'ble Tribunal allowing the members of the applicant union to resume duty, the respondents did not allow them to enter in the campus of ICAR, Borapani. However, at a later date a notice was published in a local daily allowing them to resume duty. Some of them could join duty but others could not join. Some of the applicants received back wages but none of the members of the applicants union could received the arrear salary w.e.f. 13.1.88 to April 1990.

12. That with regard to the statement made in paragraph 11 of the written statement the applicant denies the correctness of the same and begs to state that the respondents have misled the

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Hon'ble Tribunal regarding the fact of adhering to the guidelines issued certain benefits have been granted to the casual workers like that of the members of the applicant Union and claiming the aforesaid benefits as well as arrear payment w.e.f. 13.1.88 to April 1990, the present applicant has preferred the OA. Hence, statement made by the respondents are not correct.

13) That with regard to the statement made in para 12 of the written statement the applicant denies the correctness of the same and begs to state that the benefit enumerated in the 1988 scheme is yet to be extended to the present applicants although they are fully eligible to get the benefit of the same scheme. The statement regarding extending of the said benefit to the members of the applicant Union is baseless because the fact that altogether there are 11 types individual benefits have been extended by the aforesaid OM dated 7.6.88 . However, the respondents have admitted the fact that some of the benefits enumerated be extended to the members of the applicant Union . Hence, the applicant prays for an effective direction to the respondents to extended the entire benefit of the OM dated 7.6.88.

14. That with regard to the statement made in para 13 of the written statement the applicant while deny the contentions made therein reiterate and reaffirm the statement made above as well as in the OA.

15. That with regard to the statement made in para 14 of the written statement the applicant denies the correctness of the same and begs to state that representations have been preferred within the stipulated time and hence the question of Waiver does not come into play. Even otherwise also a right more particularly flowing from a scheme or guideline granting constitutional protection can not be waived. On the otherhand, the impugned

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communications make no sense.

16. That with regard to the statement made in para 15 of the written statement the applicant denies the correctness of the same and reiterates and reaffirms the statement made above as well as in the OA and begs to state that till date the benefits enumerated in the OM of the present applicant in terms of the judgement and order passed in OA No.40/94. Therefore appropriate contempt proceeding is required to be drawn up against the present contemnors for their willful and deliberate violation of the said judgement and order passed by this Hon'ble Tribunal.

17. That with regard to the statement made in para 16 of the written statement the applicant begs to state that the wordings of the letter dated 1.5.99 are so ambiguous and vague, The applicant having no other alternative preferred a representation dated 19.5.99 seeking clarification of the said letter and same is yet to be replied to.

18. That with regard to the statement made in para 17 of the written statement the applicant denies the correctness of the same and reiterates and reaffirms the statement made above as well as in the OA.

19. That with regard to the statement made in paragraphs 18, 19 & 20 of the written statement the applicant denies the correctness of the same and begs to state that the benefit of the 1988 OM is yet to be extended fully to the present applicant Union. On the otherhand the payment of arrear w.e.f 13.1.88 to April 1990 is yet to be paid to the present applicant.

20. That with regard to the statement made in para 21 to 23 of the written statement the applicant while denying the statement made therein begs to state that the respondents without applying their mind as well as without verifying the records have issued the impugned communications which is per-se illegal and hence

same is liable to be set aside and quashed.

In view of the above facts and circumstances of the case the applicant prays before this Hon'ble Tribunal for a direction to the Respondents to extend the benefit of schemes of 1993 as well as 1998 by quashing the impugned communications and to pay the arrear salary with interest.

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VERIFICATION

I Smt. Maya Thapa aged about 47 years General Secretary, ICAR Workers Union, Meghalaya do hereby by solemnly affirm and state that the statement made in this application from paragraph 1 to 20 are true to my knowledge and those made in paragraphs _____ are matters records of records informations derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on 2nd day of July 2001.

M. Thapa