

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Dropped. Date- 12/05/2003

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SECTION OFFICER (Judl.)

FORM NO. 4
(See Rule 42)IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::::: GUWAHATI

ORDER SHEET

Original APPLICATION NO 175 OF 2001.

Applicant (s) B. Abdul Ch. Akleka

Respondent (s) U. O. I. Bom

Advocate for Applicants (s) B. K. Sharma, S. Sarma, M/s D.D.A.

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

Notes of the Registry Date Order of the Tribunal

This application is in form
but not in time. For donation
Petition is filed and Cited vide
M.P. No. 110001/2001-F
for Rs. 5.7 lakhs. Adm'd
IPO/B/S/ No 66 792099.

22.5.01

The application is admitted. Called
for records. Pendency of this application
shall not be a bar for the respondent to
consider the case of the applicant.

List on 4-7-2001 for orders.

I.C.U.Sharma
Member

Vice-Chairman

R/S
21/5/2001AS
23/5/2001

4.7.2001

Mr. S. Sarma, learned counsel for
I. S. I. the applicant mentions that a similar
matter being O.A. No. 88 of 2000 has
been fixed for hearing of today. He
requests that this case may also be
taken up alongwith O.A. No. 88 of 2000.

List the case alongwith O.A. 88
of 2000 for hearing.

I.C.U.Sharma
Member

① Service Report are still
united.

bb

30/7/01

(2)

O.A. 175 of 2001

4.7.01 List on 31.7.01 alongwith O.A. No.
88 of 2000 for hearing.

No. wfs has been filed.

By
30.7.01

I.C.Ushan
Member

Vice-Chairman

lm

31.7.01

The case is not ready for hearing. The respondents is yet to file written statement for which prayer was made by Mr. B.C. Das, learned counsel for the respondents for adjournment. List on 30-8-2001 for written statement.

No. wfs has been filed.

By
29.8.01

I.C.Ushan
Member

Vice-Chairman

mb

30.8. There is no Division bench today.
The case is adjourned to 21.9.2001.

No. written statement
has been filed.

By
17.10.01

21.9. There is no Division bench today,
The case is adjourned to 18/10/2001.

mb
AK Jay
20.8

18/10. There is no Division bench today.
The case is adjourned to 18/12/2001.

mb
AK Jay
21.9.

18.12.2001 List this case on 17.1.2002.
In the meantime the respondents will file written statement.

No. written statement
has been filed.

By
16.1.02

I.C.Ushan
Member

Vice-Chairman

17.1.02 bb

List on 15.2.2002 to enable the respondents to file written statement.

No. written statement
has been filed.

By
14.2.02

I.C.Ushan
Member

Vice-Chairman

mb

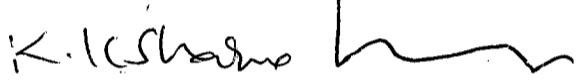
O.A. No. 175/2001

Notes of the Registry

Date

Order of the Tribunal

No. Written statement has been filed <u>3/3</u> 13.3.02	15.2.02	List on 14.3.2002 to enable the respondents to file written statement. ICC Ushan Member
No. Written statement has been filed <u>3/3</u> 11.4.02	14.3.2002	List on 12.4.2002 enabling the respondents to file written statement. ICC Ushan Member
No. Written statement has been filed <u>3/3</u> 23.4.02	12.4.02	List on 24.4.2002 to enable the Respondents to file written statement. ICC Ushan Member
No. Wts has been filed <u>3/3</u> 17.5.02	24.4.02	List on 26/5/2002 to enable the Respondents to file written statement. ICC Ushan Member
No. Written statement has been filed. <u>3/3</u> 3.6.02	26.5.02	None appears for the Respondents List on 5.6.2002 for orders. ICC Ushan Member
W/S submitted by the Respondent No. 2 and 3. <u>3/3</u> 10.6.2002	5.6.02	Written statement has not been filed. Let this case be listed for hearing on 20.6.02. The applicant may file rejoinder if any within two weeks. KISS EX ICC Ushan Member

Notes of the Registry	Date	Order of the Tribunal
	26.8.	Due to absence of lawyers, the case is adjourned to 26.8.2002. M/s A.G. 26.8.
	26.8.02	Prayer has been made by Mrs. R. Choudhury, learned counsel for the Respondents for adjournment of the case on personal ground. Prayer is allowed. List on 5.9.2002 for hearing as agreed by the parties.
		K. Usha  Member Vice-Chairman
	mb	
	26x8x	
	5.9.02	The case was posted for hearing on 26.8.2002. On that day learned counsel for the Respondents sought for adjourn- ment on the ground of absence of Sr. counsel. Mrs. R. Choudh- ury, learned counsel appearing on behalf of the Respondents today also sought for adjourn- ment on the same ground. Normal- ly this is not acceptable ground for adjournment. However we adjourned this case, reluc- tantly. No further adjourn- ment shall be granted on the next date. List again on 30.9.02 for hearing.
	mb	K. Usha  Member Vice-Chairman

O.A.175/2001

30.9.2002 Judgment delivered in open Court, kept in separate sheets.

28.10.2002

Copy of the Judgment
has been sent to the
D/Sec. for issuing the
same to the applicant
as well as to the
L/Adv. for the reply.

15/10

bb

The application is allowed in terms of the order.
No order as to costs.

K. ICSHARMA

Member

Vice-Chairman

D.L.C.)

Memo No. HC. XXI. 10 251-53 / R.M. 570. 6
27.2.07 received from the Ass'tt. -
Registration, Gauhati High Court, Gauhati.

The D.L.C. may kindly be seen.

The Applicants the Director General, ICAR and am. have filed the W.P.(C) No. 2913/2003 against the judgment and order 570 30.7.2002 passed in OA 175/2001. The Hon'ble Tribunal had allowed the aforesaid OA. But the Hon'ble High Court has modified the directions issued by this Tribunal in the light of the fact that similarly situated persons were given certain benefits in S.C. No. 112/87.

Submitted for your kind perusal.

MS
9/5/07
Hon'ble
M.C. (M.D.P.)

Normal
9.50/-
S.O. (S).

Dr. Registration
MS
9/5/07

URGENT 3

**IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND,
MEGHALAYA, MANIPUR, TRIPURA, MIZORAM AND
ARUNACHAL PRADESH)**

WP(C) No. 2913/2003

1. The Director General,
Indian Council of Agricultural
Research (ICAR)
Krishi Bhawan, New Delhi.
2. The Director,
Indian Council of Agricultural
Research (ICAR), N.E. Hill Region,
Umiam, Umroi Road,
Meghalaya.

Petitioners

-Versus-

1. Babul Ch. Deka,
2. Tilok Deka,
3. Karuna Kalita,
4. Kharsali Marak,
5. Madan Baishya.
6. Fomingstone Momin,
7. Hamaranjan Shylla,
8. Karna Bahadur Biswakarma,
9. Khim bahadur Thapa,
10. Sarada Devi,

11. Smt. Devrupa,
12. Nanda Kurmy,
13. Elizabeth War,
14. Merry Mawlong,
15. Leena Mawlong,
16. Thrina Kurbah,
17. Harmohan Das,
18. Rejina Thangkhiew,
19. Sonali Sangam,
20. Krostina Rapsang,
21. Sabitry Devi,
22. Bila Kurbah,
23. Aatilesh Kharkhonger,
24. Lohit Das,
25. Sarala Kalita,
26. Prem Narayan Sarmah,
27. Barun Das,
28. Gakul Kalita,
29. Anil Patgiri,
30. Dipa Baruah,
31. Laxman Chetry,
32. Dil Bahadur Dorjee.
33. Bishnu Kalita,

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34. Arun Baruah,
35. Laxman Thapa,
36. Birit Fawa,
37. Altaf Choudhury,
38. Marie Marak,
39. Narayan Sharma,
40. Niksin Marak,
41. Moringstone Sangma,
42. Renubala Das,
43. Babul Ch. Sharma,
44. S. Ahmed,
45. Krishna Bahadur Chetry,
46. Harka Bahadur Gurrung,
47. Ajit Das,
48. Thaneswar Kalita,
49. Kharbesar Kurmi,
50. Tatneswar Koch,
51. Jayanti Brahma,
52. Shriram Brahma,
53. Prafulla Borah,
54. Hemen Das,
55. Ranapal Marak,
56. Ophing Sangma,

✓

57. Gurudev Kalita,
 58. Padum Bahadur Chetry,
 59. Bishnu Sharma,
 60. Chandra Bahadur Chetry,
 61. Mon Bonia,
 62. Malita Lakhia,
 63. Aidarlin Nongrum,
 64. Joltinora Lakhia,
 65. Kamleswar Kalita,
 66. Mandiram Marak,
 67. Jumrit Sangma,
 68. Sachebani Sangma.

Respondents.

B E F O R E

**THE HON'BLE MR. JUSTICE P.G. AGARWAL
 THE HON'BLE SMT. JUSTICE A. HAZARIKA**

For the petitioners : Mr. K.N. Choudhury,
 Advocate.

For the respondents : Mr. M. Sarania,
 Advocate.

Date of hearing : 08.02.2007

Date of Judgment : 08.02.2007.

JUDGMENT AND ORDER (ORAL)

Heard Mr. K. N. Choudhury, learned counsel appearing for the writ petitioner and Mr. M. Sarania, learned counsel appearing for the respondents applicants.

2. The Indian Council of Agricultural Research (for short ICAR) set up/established a Farm House in the state of Meghalaya where casual labourers were recruited from different parts of the North East Region to look after the day to day works. The respondents-applicants, 68 in number, were so engaged in the year 1976-1984 on different dates. There was some dispute between the workers and the ICAR leading to declaration of lockout and subsequently, ICAR asked for undertaking from the concerned employees and later on services of the employees were terminated in the year 1986. The respondents/applicants filed a writ petition being Civil Rule No.712/1986 which was subsequently transferred to the Central Administrative Tribunal, Guwahati and was renumbered and registered as G.C. No.112/1987 and it was disposed. The respondents again approached the Central Administrative Tribunal by way of O.A. No.230/93. The said O.A. No.230/93 was withdrawn by

the applicants and another O.A. No.174/97 was filed subsequently in the said case. The Tribunal directed the present writ petitioners (ICAR) to consider the representation dated 27.8.1994. Thereafter, the writ petitioners vide order dated 24.6.1999, dismissed the said representation whereupon O.A.175/2001 was filed before the Tribunal by the respondents applicants for setting aside the order dated 24.6.1999 and to provide the applicants benefits given to the other employees in G.C. No.112/1987. It is mentioned here that some other causal employees, who were also subjected to termination, had approached the Tribunal in G.C. No.112/1987 wherein direction was given for reinstatement of those employees with all service benefits. The said order was complied with by ICAR by issuing a notification dated 22.4.1990 asking all employees, whose services were terminated, to report for duty. Admittedly, the present respondents did not report for duty pursuant to the said notifications. It is submitted by Mr. Sarania that the applicants had no information.

3. Vide impugned judgment/order the Tribunal held that the applicants being similarly situated persons as that of applicants in G.C. No.112/1987, are entitled to get the benefits and the above stand of ICAR denying the benefits cannot be accepted. The Tribunal, therefore, provided as follows:

"The respondents are accordingly directed to reinstate the applicants and provide them the benefits arising from the reinstatement. We,

however, make it clear that the applicants shall not be paid the backwage from the reinstatement. The applicants will be entitled for the entire benefits for the purpose of seniority, promotion and retiral benefits with the continuity of service. The respondents are directed to fix the pay of the applicants notionally."

4. Hence, the present writ petition by ICAR. The case of the writ petitioners is that, pursuant to the said direction in G.C. No.112/87, the ICAR had published notifications dated 22.4.1990 and 23.4.1990 allowing the casual workers to resume their duty with immediate effect. But the respondents had failed to comply with the above directions. Moreover, the scheme for regularization has been made in the year 1993 in respect of the persons, who were serving employees as on 1.9.1993. As the respondents were not subsisting employees, benefits of the said scheme cannot be given to them. There is no dispute at the Bar that the respondents/applicants did not resume their duty pursuant to the notifications dated 22.4.1990 and 23.4.1990. Mr. Sarania has also submitted that although 68 applicants had joined together initially, at present 20 of the applicants are not interested to pursue their claim only 48 applicants remain.

5. The next submission of the petitioners is that the ICAR even tried to help these respondents applicants by submitting a proposal for creation of 100 nos. of posts

but the proposal has not been considered by the Finance Department, Govt. of India till today. There is no existing vacancy to accommodate the respondents. Annexure-J has been filed by the petitioners to show that though the number of sanctioned post is 137, 139 staffs are working and as such two persons are in excess, who are required to be adjusted against the future vacancies.

6. The law regarding absorption, regularization, or permanent continuance of temporary, contractual, casual, daily-wage or ad-hoc employees were settled by the Constitution Bench of the Apex Court in the case of ***Secretary, State of Karnataka and others -vs- Uma Devi and others***, reported in **2006 (4) SCC 1**. In the above case, the Apex Court held that the theory of legitimate expectation does not apply in the case of any temporary employee in casual work without proper selection as recognized by the rules or procedure. Right of such employees for regularization was not held to be created as it would amount to impropriety and illegality in the matter of public employment.

7. In the present case, we find that the respondents/applicants were engaged as casual workers in 1980 and they continued till 1986. For last twenty years they are not employees in ICAR and admittedly they must have made alternative arrangement for their livelihood by somehow and in view of that, the Tribunal did not grant them back wages. As the regularization can be made against the existing vacancies/posts only and in view of the statement made by the petitioners that no

vacancy exists as on today, we propose to modify the directions issued by the Tribunal in the light of the fact that similarly situated persons were given certain benefits in G.D. No.112/87 which had been complied with by the petitioners. The ICAR shall maintain a proper list of the respondents-applicants and whenever any vacancy arises to which the respondent-applicants are eligible, the posts should be offered to them. This shall be considered for appointment along with others but preference will be given to these employees which would be on the basis of the seniority in the matter of appointment to the casual post.

8. We further provide that in case ICAR need causal workers at any point of time, the case of the respondent-applicants shall be given first preference and the casual work may be offered to them. The question of regularization shall be considered on merit against the existing/available vacancy only.

9. In case, the respondents are found to be over aged, their case for relaxation shall be considered as per the rules and regulations.

Sd/- A. Hazarika.
JUDGE.

Sd/- P.G. Agarwal.
JUDGE.

Contd...

URGENT

Memo No. HC.XXI. 10, 251-53 R.M. Dtd. 27/1/07

Copy forwarded for information and necessary action to:-

1. The Director General, Indian Council of Agricultural Research (ICAR) Krish Bhawan, New Delhi.
2. The Director, Indian Council of Agricultural Research (ICAR), N.E. Hill Region, Umiam, Umroi Road, Meghalaya.
3. The Deputy Registrar, Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Bhangagarh, Guwahati- 781005. He is requested to acknowledge the receipt of the following records. This has a reference to his letter No. 16-3/02-JA/845 Dtd. 12.12.2006.

Enclo:-

1. C.A. 175/01 Part "A" with Judgement and Order Sheets.

By order

M. Samanta
26/1/07

Asstt. Registrar (Judl.)
Gauhati High Court, Guwahati.

Chief
26/1/07

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. /XXX-No.175.of.2001...~~xx~~

DATE OF DECISION. 30.9.2002.....

Babul Ch. Deka & 67 Others.

APPLICANT(S)

Mr. B. K. Sharma, S. Sarma & Ms. U. Das. ADVOCATE FOR THE APPLICANT

VERSUS

Union of India & Others.

RESPONDENT(S)

Mr. K. N. Chaudhury & Indraneel Chowdhury. ADVOCATE FOR THE
RESPONDENT(S)

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

THE HON'BLE MR K. K. SHARMA, ADMINISTRATIVE MEMBER.

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

✓
Judgment delivered by Hon'ble Vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 175 of 2001.

Date of Order : This the 30th Day of September, 2002.

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

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

1. Babul Ch. Deka
2. Tilok Deka.
3. Karuna Kalita.
4. Karsali Marak.
5. Madan Baishya.
6. Fomingstone Momin.
7. Hamaranjan Shylla.
8. Karna Bahadur Biswakarma.
9. Khim Bahadur Thapa.
10. Sarada Devi.
11. Smt. Devrupa.
12. Nanda Kurmy.
13. Elizabeth War.
14. Merry Nowlong.
15. Leena Nowlong.
16. Thrina Kharboh.
17. Harmohan Das.
18. Rejina Thenkiew.
19. Sonali Sangma.
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33. Bishnu Kalita.
34. Arun Baruah.
35. Laxman Thapa.
36. Birit Fawa.
37. Altaf Choudhury.
38. Marie Marak.
39. Narayan Sharma.
40. Niksin Marak.
41. Moringstone Sangma.
42. Dam Marry Rabina.
43. Babul Ch. Sharma.
44. S. Ahmed.

45.Krishna Bahadur Chetry.
45.Harka Bahadur Gurrung.
47.Ajit Das.
48.Thaneswar Kalita.
49.Kharbesar Kurmi.
50.Ratneswar Koch.
51.Jayanti Brahma.
52.Shriram Brahma.
53.Prafullly Borah.
54.Hemen Das.
55.Ranapal Marak.
56.Ophing Sangma.
57.Gurudev Kalita.
58.Padum Bahadur Chetry.
59.Bishnu Sharma.
60.Chandra Bahadur Chetry.
61.Mon Bonia.
62.Malita Lakhit.
63.Aidarlin Nongram.
64.Jotimora Lakhit.
65.Kamleswar Kalita.
66.Mandiram Marak.
67.Jumrit Sangma.
68.Sachebani Sangma.

..... Applicants.

By Sr.Advocate Mr.B.K.Sharma, S.Sarma & Mrs.U.Das.

- Versus -

1. Union of India

Represented by the Secretary
to the Ministry of Agriculture
Krishi Bhawan, New Delhi.

2. The Director General

Indian Council of Agricultural Resource (ICAR)
Krishi Bhawan, New Delhi.

3. The Director, ICAR

ICAR Research Complex for NEH Region
Umroi Road, Borapani
Meghalaya-3.

..... Respondents.

By Sr.Advocate Mr.K.N.Choudhury & Indraneel Chowdhury.

O R D E R

CHOWDHURY J.(V.C.) :

In this application under section 19 of the Administrative Tribunals Act, 1985 the applicants have assailed the order passed by the respondents vide order dated 24.6.1999 refusing to provide them the benefits

conferred on the persons who were similarly situated.

1. The applicants are sixty eight in number, who are before the Tribunal for the third time praying for same and similar relief. Considering the nature of the relief and the facts and circumstances, the applicants are allowed to espouse their cause by single application. The applicants were engaged as Casual Workers by the respondents, some of them were engaged in 1976, some of them in 1981, 1982, 1983, 1984 and 1985 onwards. The dates of engagement are reflected in Annexure-A of the application. The Casual Workers through their Workers Union demanded for regularisation of their services, but the same evoked no result and the applicants like others were terminated. Some of them preferred Writ Petition No.712/86 before the High Court, which was later on transferred to this Tribunal. The said case was numbered and registered as G.C.No.112/87. This Tribunal by its judgment and order dated 12.1.1988 set aside and quashed the notice and directed the respondents to allow the applicants to resume their duties with immediate effect and they would be deemed to be in continuous service with all the service benefits from the date they were not allowed to join their duties. The question of regularisation, though left to the authority, the Tribunal expressed its view in favour of regularisation in accordance with law.

2. The respondents authority preferred SLP before the Hon'ble Supreme Court. There was

an interim order. Subsequently by the judgment and order dated 20.2.1990 the Hon'ble Supreme Court dismissed the SLP. The applicants thereafter preferred an O.A. bearing No.230 of 1993 before this Tribunal alongwith Smt. Maya Thappa & Others. The said O.A. was disposed by the Tribunal on 1.9.1994 directing the General Secretary of the Union to file representation before the authority ventilating the grievances of the members of the Union. Through the Union the representation was filed on 27.8.1994. The reminders were also issued. These applicants also thereafter preferred O.A.174/1997 praying for a direction of the respondents to reinstate them in service in terms of the judgment in G.C. No.112/87. The Tribunal upon hearing the parties disposed of the application with a direction on the respondents to dispose of the Annexure-5 representation dated 27.8.1994 in terms of the order dated 12.1.1998 passed in G.C.No.112/87 within the prescribed period. As per Annexure-5 mentioned the said O.A. the General Secretary of the ICAR Union prayed for redressal of their grievance, wherein they sought for reinstatement with all consequential benefits. By order dated 1.5.1999 the authority informed the General Secretary of the Union that the representation was never submitted in the office, therefore the question of disposal of the same did not arise. By the said order it was also informed that the directives of the CAT/GHY

Bench judgment was fully implemented and no injustice had been done to the working temporary status mazdoors of ICAR complex, Meghalaya and the representation alleged to have been filed on 10.2.1998 was accordingly disposed off. By the said order the applicants were also informed that the applicants in O.A.174 of 97 were not on roll as on 1.9.1993 and therefore they did not fulfil the requirement mentioned in the Scheme for granting temporary status. Hence this application assailing the legitimacy of the order. The applicants mainly contended that they are similarly situated with those persons mentioned in G.C.No.112/87. All the persons mentioned in G.C.112/87 and also the similarly situated persons were already reinstated and thereafter they were regularised.

3. The respondents submitted their written statement and contested the claim of the applicants. In the written statement, the respondents stated that the judgment and order dated 21.4.1998 passed in O.A.174/97 was fully implemented by the respondents and communicated the same by letter dated 24.6.1999. It is inter alia stated that the applicants of O.A.174/97 were not on roll as on 1.9.1993 and since they did not fulfil the terms and conditions of the temporary status mazdoor scheme, the question of granting temporary status to the applicants did not arise. The respondents also stated that some of the labourers (220 in numbers) had filed a Writ Petition in Gauhati High Court bearing

No.712/86 and the said Civil Rule was subsequently transferred to this Tribunal and the same was numbered as G.C.No.112/87. The Tribunal vide judgment and order dated 12.1.1998 directed the respondents to allow the petitioners of the G.C.No.112/87 to resume their duties and with a further direction to treat them as on duty for the said break period. Accordingly, respondents allowed the petitioners of G.C.No.112/87 to resume their duties and complied the order of the Tribunal dated 12.1.1998. The respondents also stated the applicants of this O.A. were not the party to G.C.No.112/87 as such they cannot claim any benefit on behalf of the judgment dated 12.1.1998 passed in G.C.No.112/87.

4. We have heard Mr.B.K.Sharma, learned Sr. counsel assisted by Mr.S.Sarma, learned counsel on behalf of the applicants and also Mr.Indraneel Chowdhury, learned counsel appearing on behalf of the respondents at length. From the materials on records it is apparently clear that these sixty eight applicants are similarly situated with those applicants mentioned in G.C.No.112/87. These applicants also are fighting for their rights before the Tribunal and preferred O.A. Nos.238/93 and 174/97. The Tribunal by its orders directed the respondents to consider their cases. One of the ground assigned by the respondents are that these applicants are not party before the Tribunal in G.C.NO.112/87. Undoubtedly, the applicants were not

party in G.C.No.112/87, but then when the very action of the respondents was set aside and quashed on the basis of which the persons mentioned in G.C.No.112/87 were reinstated, there is no justification for leaving out these applicants also for the similar benefits. These applicants are similarly situated and the judgment delivered by this Tribunal in G.C.112/87 was not a judgment for one person, but it is a judgment in rem. Hence we do not find any justification for not giving the benefit to these applicants, which was already given to other persons, similarly situated. In this connection, it would be appropriate to refer to the following decisions :

"(1990) 4 SCC 13
(1996) 7 SCC 381
(1997) 6 SCC 721

The other reasons indicated by the respondents that these applicants were not on roll as on 1.9.1993 cannot be a valid ground for not considering their case. The applicants could not have been on roll on 1.9.1993 on the face of the purported termination order. Similarly situated persons were reinstated sequal to the order of the Tribunal. The stand point of the respondents for reinstating the applicants inspite of the decisions of the Tribunal in similar situations are not legally sustainable. Persons similarly situated obtained judgment in their favour, without any valid ground it was inappropriate to deny the same benefit to these persons. The decision rendered in the earlier case is

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'in rem Judicatum'."Interest republicae ut sit finis litium" - In the interest of republi litigation must have a limit. The reasonings assigned by the respondents in not considering the claim of the applicants cannot be sustainable and accordingly the order dated 24.6.1999 is set aside and the respondents are directed to provide the applicants similar benefits provided to the applicants in G.C.No.112/87. The respondents are accordingly directed to reinstate the applicants and provide them the benefits arising from the reinstatement. We, however, make it clear that the applicants shall not be paid the backwage from the reinstatement. The applicants will be entitled for the entire benefits for the purpose of seniority, promotion and retiral benefits with the continuity of service. The respondents are directed to fix the pay of the applicants notionally.

The application is thus allowed to the extent indicated above. There shall, however, be no order as to costs.

K.K.Sharma
(K.K.SHARMA)
ADMINISTRATIVE MEMBER

D.N.CHOWDHURY
(D.N.CHOWDHURY)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

(An application under section 19 of the Administrative Tribunal Act, 1985)

Title of the case :

O.A.No. 175 of 2001.

BETWEEN

Shri Babul ch Deka & anr.

VERSUS

Union of India & Ors.

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Filed by : U.K. Goswami, Advocate. Regn. No

File No.: C:\WS7\BABUL1

Date: 24.5.2001.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central Administrative
Tribunal Act.1985)

D.A.No. '2001

BETWEEN

1. Babul Ch Deka.
2. Tilok Deka.
3. Karuna Kalita.
4. Karsali Marak.
5. Madan Baishya.
6. Fomingstone Momin.
7. Hamaranjan Shylla.
8. Karna Bahadur Biswakarma.
9. Khim Bahadur Thapa.
10. Sarada Devi.
11. Smt. Devrupa.
12. Nanda Kurmy.
13. Elizabeth War.
14. Merry Nowlong.
15. Leena Nowlong.
16. Thrina Kharboh.
17. Harmohan Das.
18. Rejina Thenkiew.
19. Sonali Sangma.
20. Krostina Rupseng.
21. Sabitry Devi.
22. Bila Kharboh.
23. Aitilesh Kharkhonger.
24. Lohit Das.
25. Sarala Kalita.
26. Prem Bahadur Chettry.
27. Barun Das.
28. Bakul Kalita.
29. Anil Patgiri.
30. Dipa Baruah.
31. Laxman Chetry.
32. Dil Bahadur Darjee.
33. Bishnu Kalita.
34. Arun Baruah.
35. Laxman Thapa.
36. Birit Fawa.
37. Altaf Choudhury.
38. Marie Marak.
39. Narayan Sharma.
40. Niksin Marak.
41. Moringstone Sangma.
42. Dam Marry @ Rabina.
43. Babul Ch Sharma.
44. S. Ahmed.
45. Krishna Bahadur Chettry.
46. Harka Bahadur Gurrung.
47. Ajit Das.
48. Thaneswar Kalita.
49. Kharbesar Kurmi.

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Filed by
the applicant through
Lokan Das
Advocate
14/5/2001

OA
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50. Ratenswar Koch.
51. Jayanti Brahma.
52. Shriram Brahma.
53. Prafulla Borah.
54. Hemen Das.
55. Ranapal Marak.
56. Ophing Sangma.
57. Gurudav Kalita.
58. Padam Bahadur Chettry.
59. Bishnu Sharma.
60. Chandra Bahadur Chettry.
61. Mon Bonia.
62. Malita Lakhit.
63. Aidarlin Nongram.
64. Jotimora Lakhit.
65. Kamaleswar Kalita.
66. Mandiram Marak.
67. Jumrit Sangma.
68. Sachebani Sangma.

..... Applicants.

- A N D -

1. The Union of India,
Represented by the Secretary to the
Ministry of Agriculture, Krishi Bhawan, New Delhi.
2. The Director General, Indian Council of Agricultural Research
(ICAR), Krishi Bhawan, New Delhi.
3. The Director ICAR, ICAR Research Complex for NEH Region, Umroi
Road, Borapani, Meghalaya-3.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the action of the respondents in not considering the cases of the applicants for of temporary status and subsequent regularisation in the light of various schemes formulated by the respondents in this regard. This application is also directed against the order dated 1.5.99 issued by the respondent No. 3 violating the direction and observation made in the judgment and order dated 21.4.98 passed in OA No. 174/97 by this Hon'ble Tribunal. This application is also directed against the order dated 24.6.99 passed by the Director ICAR, rejecting their claim for grant of temporary status.

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2. LIMITATION:

The applicants declare that the instant application has been filed within the limitation period prescribed under section 21 of the Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicants further declare that the subject matter of the instant case is within the jurisdiction of the Hon'ble Tribunal.

4. FACTS OF THE CASE

4.1. That the present applicants have come before this Hon'ble Tribunal seeking an appropriate direction to the respondents to consider their cases for grant of temporary status and subsequent regularisation of their services taking into consideration the various schemes formulated in this regard. The applicants are casual workers and they have been employed by the respondents mainly in the two classified projects of ICAR namely General Multiplication and Farming System. All the applicants initially were under the ICAR workers Union and because of their unsecured service conditions the said Union espousing their cause made several attempts for their regularisation. Applicant through their said Union has preferred several representations but same evoked no result. There after they had to resort for strikes and lockouts and as a measure of punishment their services have been terminated arbitrarily without following the minimum required procedure. The event took place during the period of 1985-86 and seeking relief against the said action of the respondents and also claiming regularisation of their services applicants Union preferred writ petition bearing No. 712/86 before the Hon'ble

High court. The said Civil Rule was subsequently transferred to the Hon'ble Tribunal and same was numbered as OA No. 112/87. The Hon'ble Tribunal vide it's judgment and order dated 12.1.88 directing the respondents to allow the applicants to resume their duty and with a further direction to treat them as on duty for the said break period. Thereafter the entire complexion regarding the entitlement of casual worker's regularisation has changed a lot. The respondents thereafter adopted various schemes to that effect but the service condition of the applicants remained as it is. Thereafter the applicants services were discontinued for brief periods creating artificial breaks. The Union took up the matter and preferred OA No. 40/94, but before that the present applicants lost their identity as Union Member during the pendency of the OA No. 40/94, the respondents extended the benefit of the scheme of 1993 and they have been granted with temporary status with effect from 1993 and the said benefit was only extended to the applicants thereto. The present applicants after loosing their identity and having not getting any benefit preferred an OA bearing No. 174/97 praying for grant of temporary status and subsequent regularisation. The said OA was disposed of vide order dated 21.4.98 directing the respondents to consider the case of the applicants by disposing the representation in terms of the judgment and order dated 12.8.88. Thereafter the applicants preferred a contempt petition vide No. 14/99 for willful and deliberate violation of judgment and order dated 21.4.98 passed in OA No. 174/97. The said CP was closed vide it's order dated 20.2.2001. The contention of the contemners in the said CP was that the reply furnished to the Union will hold the field in rejecting the claim of the present applicant also and according the CP was closed. However, the said benefit has not been granted to the present applicant only on the ground of

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their loosing identity as Union Members. Presently the applicants cases are covered by various schemes but they are yet to get a single benefit of those schemes. Hence, the present application. The cause of action and the relief sought for by the applicants are similar and they crave leave of the Hon'ble Tribunal to allow them to join together in a single application invoking Rule 4 (5) (a) of CAT (P) Rules 1987.

This is the crux of the matter for which the applicants have come before this Hon'ble Tribunal seeking an appropriate relief granting them temporary status and subsequent regularisation with retrospective effect.

4.2 That the applicants are citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed by the Constitution of India and laws framed thereunder.

4.3. That the applicants got their initial appointment as casual workers under the ICAR Research Complex for NE Region at Borapani. The ICAR is a state under the meaning of constitution of India and it follows the rules and regulations formulated by the Govt. of India issues from time to time.

The date of engagement of each applicants are different and hence a list containing their respective dates of engagement is annexed herewith for ready reference and marked as Annexure-A.

4.4 That all the applicants fulfill the required length of service for grant of benefits enumerated in the scheme prepared by the Govt. of India and in the light of those schemes their services are required to be regularized. All the applicants in

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the present application have got a common cause of action and the relief sought for by the applicants are also similar. Therefore, the applicants pray before this Hon'ble Tribunal to allow them to join together in a single application invoking Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules, 1987 to minimize the number of litigation well as the cost of the application.

4.5 That all the applicants hail from very poor families and in search of their livelihood they offered their candidature before the respondents and the respondents having found them suitable engaged them as casual worker.

4.6 That the present applicants are constrained to file the present application making a grievance against their disengagement from their services by the respondents and non-implementation of the judgment and order passed by the Hon'ble Tribunal which was subsequently carried on appeal before the Hon'ble Apex Court, which was also dismissed by order dated 28.2.90. Thereafter applicants in GC 112/87 have been reinstated following the said judgment but same benefit was never given to the present applicants who were similarly situated and similarly disengaged by the respondents. The present applicants are presently out of job and the respondents have treated them differentially and the said principle regarding reinstatement was never made applicable to them only on the ground that the present applicants were not the party to that proceeding. The respondents all along have been assuring them for reinstatement however till date nothing has been done so far in the matter. It is pertinent to mention here that the applicants of the GC 112/87 as well as the present applicants were all disengaged in 1986. After such disengagement the casual workers of that locality could stay and

pursue the matter but the present applicants being a resident of different places including some interior places of Assam and Meghalaya could not stay near to Barapani from 1986 to 1990 and because of such disengagement they had to leave Barapani. Because of their poverty and financial hardship and because of the communication gap they could not join hands with the applicants in GC 112/87. However, to the best of the knowledge of the applicants before initiation of the process of filing GC 112/87, the present applicants forwarded their names and other particulars to their Union. They were under the bonafide impression that they were also parties to that proceeding however, after finalisation of the said proceeding (GC 112/87), they could come to know that they have been left out from the said proceeding. The applicants thereafter preferred an OA bearing OA NO. 230/93 praying for reinstatement in their respective services. The said OA 230/93 was disposed vide order dated 26.7.94 directing the respondents to dispose of the representation. However, the respondent have not disposed of the said representation which forced the present applicant to prefer another round of litigation by way of filing OA No. 174/97. The Hon'ble Tribunal after hearing the parties to the proceeding disposed of the said OA vide it's judgment and order dated 21.4.98 with a direction to the respondents to dispose of the representation in terms of the judgment and order dated 12.1.88 passed in GC 112/87 within a stipulated time frame. The respondents once again flouted the said judgment and order dated 21.4.98 passed in OA No. 174/97 forcing the present applicants to prefer contempt petition vide No. 14/99. In the show cause reply the respondents have pointed out that the said representation has been disposed of. The respondents however in the said order dated 24.6.99 indicated that the present applicants do not

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fulfill the requirement of the scheme "Raj Kamal's Scheme" of 1993. Hence the present application seeking an appropriate relief from this Hon'ble Tribunal.

This is the crux of the matter for which the applicants have come before this Hon'ble Tribunal seeking an appropriate direction to the respondents to extend the benefit of the schemes prepared by the concerned Ministry and to regularise their services in their respective posts.

4.7 That the applicants were initially engaged by the respondent No. 3 as casual workers with effect from various dates as reflected in Annexure 'A'. Their services were taken in a exploitative terms. They were not given the minimum pay scale as required under the relevant schemes prepared by the Govt. of India., As stated above ICAR is a registered society and the same is under the deep and pervasive control of Govt. of India and this is a State under the meaning of Article 12 of Constitution of India.

4.8 That since the inception of Research Complex of ICAR at Bhopal casual labourers like that of the present applicants were recruited from different parts and sources of NE Region including West Bengal and Bihar.

4.9 That the present applicants were all appointed with effect from the year most specifically indicated in the Annexure-A list containing their service particulars. The names of the applicant were duly registered under the respective employment exchanges in the NE Region. At the time their disengagement in the year 1986 all of them have completed at least more than 240 days of continuous service. And hence they are entitled to get the benefit of the schemes prepared by the Govt. of India. Govt. of India right from 1968.

The applicants craves leave of this Hon'ble Tribunal to produce all the relevant schemes adopted by the respondents at the time of hearing of this case.

4.10 That the applicants after their initial appointment had to work continuously by the respondents even during the holidays including Sundays and were exploited by the respondents in not granting the minimum wages as per the Rules. Demands have been made by the applicants more particularly the ICAR workers Union towards regularisation of their services under the schemes, fixation of working hours, declaration of holidays, grant of various allowances including overtime allowances etc. before the concerned authority. However, the respondents did not pay any heed to their such demands unlike the other causal and seasonal workers the applicants have been made to work which is more like specialised and skilled work of technical nature. Since all the applicants are well acquainted with their respective jobs, are entitled to get back their re-engagement taking into consideration the various schemes mentioned above. The applicants since are acquainted with all the jobs of Group-D category, are entitled to get back their job against any Group-D posts.

4.11 That the applicants as stated above made several demands and having not gained anything back as a reward were constrained to issue a strike notice in accordance in accordance with law vide letter dated 3.10.85, wherein 16 points charter of demands were made before the respondent No. 3. However, nothing came out positive from the respondents which compelled the applicants to resort to pen down/tool down strike with effect from 1.11.85 to 16.11.85 and as a result of such activities respondent No. 3 deprived the applicants of their wages for the said period.

4.12 That on receipt of 16 points charter of demand, a conciliation proceeding was intimated before the Asstt. Labour Commissioner (Central), Ghy, and the status quo was directed to be maintained during the pendency the said conciliation proceeding. However, inspite of the clear direction for maintenance of status quo, the respondents illegally issued lock out on 16.1.86.

4.13 That subsequently the said lock out was lifted by the respondents and the applicants were directed to sign an agreement illegally and allowed to continue in their respective services. Except a few, most of the casual labourers including the present applicants refused to sign on the said agreement which was issued in violation of the rules and same has resulted their discontinuation from their respective services since 2.4.86. After the aforesaid disengagement the respondents even did not allow them to enter in the campus and to that effect help of police was also taken by the Management.

A copy of the impugned notice dated 5.4.86 is annexed herewith and marked as Annexure-1

4.14 That challenging the aforesaid illegalities 220 casual workers preferred a writ petition bearing No. CR 712/86 before the Hon'ble Guwahati High Court. During the pendency of the said Civil Rule the Administrative Tribunal Act, 1985 come into force and the said Civil Rule was transferred and renumbered as GC No. 112/87. As already stated above although the present applicants were under the bonafide impression that their names have also been incorporated in the said Civil Rule, in view of their communications made to the Union. However, later on the present applicants could come to know about the fact that they were not

made party in the said proceeding. It will be pertinent pertaining to mention here that at the time of disengagement the present applicants who hail from various places of NE Region left Borapani headquarter to maintain their lives and consequently they lost touch with their offices. As stated above the present applicants belong to lower stratum of the society and they have got no knowledge about the legal niceties. In fact they were under the bonafide impression that the judgment delivered in one case would cover their cases also, even they were not the parties to the said proceeding.

4.15. That the aforesaid O.A. bearing No. GC No. 112/87 was taken up for hearing and the Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said O.A. The Hon'ble Tribunal while allowing the said O.A on 12.1.88 was pleased to direct the Respondent to allow the said applicants to resume their duties forthwith and the break period was directed to be treated as on duty.

A copy of the said judgement dated 12.1.88 is annexed herewith and marked as ANNEXURE-2.

4.16. That the respondent preferred an appeal before the Hon'ble Apex Court against the said Annexure-2 Judgement dated 12.1.88. The Hon'ble Apex Court while issuing notice stayed the operation of the judgement of the Hon'ble Tribunal. The said matter come for hearing before the Hon'ble Apex Court and Hon'ble Apex Court was pleased to dismiss the appeal preferably the Respondents.

A copy of the aforesaid Apex court order dated 28.2.90 passed in SLP No. 5159/88 with civil misc. petition No. 10332/88 is annexed herewith and marked as ANNEXURE-3.

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4.17 That the said judgement of the Hon'ble Apex Court the Respondents have issued a notice in the local news paper published and circulated at Shillong giving notice to the employees who were disengaged, to join services within one week from the said publication . In the said notice nothing has been mentioned regarding the re-engagement of other similarly situated employees like of the applicant in GC No. 112/87. It is pertinent to mentioned here that the present applicants who are not the local resident of Borapani could come to know about the said development after a considerable delay. the respondents ought to have published the said notice in a National Daily instead of a Local Daily News Paper so that people outside Borapani could notice the same. Only because of the local publication covering a limited area has deprived the legitimate claim of the present applicants.

4.18 That the applicants state that after the aforesaid delay they approached the authority concerned praying for their reinstatement in the light of the judgement passed by Hon'ble Apex Court . However, such prayer was rejected only on the ground of delay. The applicants approached the union to take an appropriate step in the matter but nothing come out positive even after the pressure exaggerated by the said Union. Instead of the reengaging the present applicants only assurances have been made by the Respondents for such re-engagement. Because of the aforesaid assurance present applicants kept on waiting for their re-engagement also for the similar treatment. However even after a lapse year nothing was done which continued the sufferings of the applicants.

4.19. That the Union espousing the case of the present applicants preferred O.A. No. 230/93 praying for similar relief as has been granted in GC No.112/87. During the course of hearing

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of the Hon'ble Tribunal was of the opinion that the matter would be expedite if a direction is issued to the respondents to dispose of the representation. Taking that view of the matter, the Hon'ble Tribunal disposed of the said O.A No. on 26.7.94 with a direction firstly to the applicants to prefer a detailed representation highlighting their grievances and secondly, direction have been issued to the respondents to dispose of the said representation with reasoned order.

A copy of the said judgement and order dated 26.7.94 is annexed herewith and marked as ANNEXURE-4.

4.20 That in the light of the aforesaid judgement of the Hon'ble Tribunal, the workers Union preferred a representation on behalf of the applicants on 27.8.94. After having found no reply not to speak of resounded order, as directed by the Hon'ble Tribunal, they served a legal notice on 31.12.94, making a demand for their re-engagement as well as other consequential service benefits.

A copies of the representation dated 27.8.94 and the legal notice dated 31.12.94 annexed herewith and marked as ANNEXURE -5 & 6 respectively.

4.21. That on receipt of the said legal notice the then Director took a sympathetic view and an earlier some assurance has been given to the present applicants, however, after attaining the age of superannuation the matter again took different line after the joining of another Director.

4.22. That been aggrieved by the aforesaid inaction on the part of the respondents the present applicants preferred O.A. No. 174/97 individual capacity to avoid further complication. It is pertinent to mention here that the plea was raised by the

respondents in in O.A.No. 230/93 as to the locus standi of the Union in espousing their cause. The applicants in the said O.A. has raised the plea of granting similar relief as has been extended to the applicants of O.A.No.112/87.

4.23. That the Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said O.A. by judgement and order dated 21.4.98 directing the respondents to dispose of the representation preferred earlier by the applicants in terms of the judgement and order dated 12.1.88 passed in G.C.No.112/87 within a period of two month.

A copy of the said judgement and order dated 21.4.98 is annexed herewith and marked as ANNEXURE-7.

4. 24. That the applicants beg to state that after the pronouncement of the aforesaid judgement the respondents kept the matter pending for a long time for which applicants had to prefer contempt petition for enforcement of the said judgement and order dated 21.4.98 passed in O.A.174/97. The contemner/ respondents in the aforesaid contempt petition No. 14/99 filed objection enclosing an order dated 24.6.99 stating that the representation preferred by the applicants are the same which was preferred by the union and the reply given to the said representation will hold the filed so far it relates to present applicants also. It is pertinent to mention here that the Director ICAR in response to the representation preferred by the union issued a letter vide No. Rc(G) 23/94 dated 1.5.99 disposing of the said representation . Be it stated here that while replying to the contempt petition 14/99 , the Director ICAR enclosed a letter dated 24.6.99 by which reiterating the stand taken in the earlier order date 1.5.99 again intimated regarding the question of granting benefit of the scheme and there by

rejected their claim.

Copies of the impugned communication dated 1.5.99 and dated 24.6.99 are annexed herewith and marked as ANNEXURE-8&9.

4.25. That the present applicants in view of issuance of aforesaid impugned communications prayed before the Hon'ble Tribunal to close the said contempt proceeding initiated vide CO No. 14/99 on 20.2.2001. In fact both the impugned orders are non speaking and violative of the judgement and order dated 12. 1.88 passed to G.C. No. 112/87 and 21.4.98 passed in OA No. 174/97. The Hon'ble Tribunal directed the respondents to consider the cases of the present applicants in terms of the judgement and order dated 12.1.88 passed in G.C. No. 112/87.

4.26. That the applicants beg to state that they are entitled to get benefit of judgement and order dated 12.1.88 passed in G.C. No.112/87. The respondents have acted contrary to the judgement and order passed in O.A.174/97 wherein there has been a categorical direction to consider the case of the present applicants in the light of the aforesaid judgement passed in G.C.No.112/87. It is pertinent to mentioned here that since the present applicants were not party to that proceeding therefore the respondents have shown their helplessness in granting the relief as has been granted to their counterparts. It is an admitted position that the applicants were given assurances regarding granting of relief but because of the changed situation the applicants have been deprived of their legitimate claims where as other similarly situated person like that of the present applicants are enjoying the said benefit. Law is well settled that in a given case if a law is laid down same is required to be made applicable to all the similarly situated employees without requiring them to approach the doors of the court again and

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again. The duties and responsibilities of a model employer is to extend the benefit given by a contempt court of law without requiring them to enforce the same by approaching the said court again. But in the present case the respondents knowing fully well the facts and figures and the similarity of the present applicants -vis-a-vis the applicants in G.C.No. 112/87, refused the said benefit without any reason.

4.27. That the applicants beg to state that the Union representing the applicants of G.C.No. 112/87 preferred O.A. No. 40/94 claiming the benefit of the scheme of 1989 and 1993. During the pending of the said OA the respondents issued an order by which the said applicants have been granted with the benefit of the scheme of 1993. Keeping this development in mind, the Hon'ble Tribunal disposed of the said OA on 24.9.97 directing the respondents to consider the case of the applicants against the 89 scheme by disposing of their representation .

A copy of the aforesaid representation and order dated 24.9.97 passed in OA No. 40/94 is annexed herewith and marked as ANNEXURE-10. & 10A

4.28. That the applicants beg to state that the Deputy Secretary ICAR issued a letter vide No. 21-21/96-CDN dated 7.4.97 issued to all the Directors enclosing a complete brochure on casual labours wherein although 22 such scheme have been forwarded under which the case of the present applicants are required to be considered.

The applicants crave leave this Hon'ble Tribunal to produce the said brochure at the time of hearing of the case.

4.29. That the applicants beg to state that under the respondents i.e. the respondents No.3 Director ICAR there as many as 426 vacant posts which have been sanctioned for the 9th plan by the Headquarter. The respondents now filing up those posts by

Daily waged labour. There are instances of such expenditures being spent in the name of Estate Officer ICAR . Presently a sum of Rs.30,000/- P.M. is being paid to such Daily waged labour under different heads. That apart since the ICAR being an organisation based on Scientific Research work relating to agriculture, casual workers are required everyday to prepare the field. Contingency advances are being drawn by the head of the different units including the Units namely Daily, Scientist Home, Firm Manager (Soil Section), Pulp Pathology, Plant breeding , Construction, Vehicle cell etc. Apart from that presently there is need of at least 120 casual workers under the Respondents and therefore the applicants pray before this Hon'ble Tribunal for a direction to the respondents to allow the present applicants to work against any such vacant post temporarily during the pendency of case.

4.30. That the applicants beg to state that as stated above there are numbers of vacant post of casual workers and the Respondents very well can accommodate the present applicants to meet their immediate hardship. Needless to say here that the present applicants are experienced hands of the respondents and therefore there is no earthly reason as to why they are being unutilized by the Respondents . On the other hand the case of the applicants are required to be considered under the scheme prepared by the Respondents for their welfare and their services are required to be regularised with retrospective effect.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action of the respondents in issuance of the aforesaid impugned order dated 1.5.99 and 24.6.99(Annexure-8&9) are illegal, arbitrary and violative of principles of Natural Justice and therefore the Hon'ble Tribunal may be pleased

to set aside the aforesaid orders directing the respondents to reinstate the present applicants and to grant the benefit of the schemes with retrospective effect.

5.2. For that the respondents of their own ought to have extended the benefit of the present applicants as has been granted to the other similarly employees i.e. the applicants of G.C. No.112/87 .

5.3. For that Hon'ble Court having laid down the law more particularly in G.C No. 112/87, it was the duty of the respondents to extend the said benefit to the present applicants more so taking into consideration the judgement and order dated 21.4.98 passed in OA.No.174/97.

5.4. For that the Hon'ble Tribunal having directed the respondents to examine the matter much earlier while disposing of the earlier OA No.230/93, it was the duty of the respondents to examine the same and to grant the reliefs prayed for by the present applicants. The respondents knowing fully well the plight of the present applicants delaying the matter so as to get rid of them and hence the entire action on the part of the respondents are liable to be set aside and quashed.

5.5. For that the applicants being similarly situated like that of the applicants in GC No.112/87, there is no earthly reason as to why the similar benefit should not be granted to the present applicants.

5.6. For that the respondents being a model employer ought to have reengaged the present applicants who were the experienced hand, more so when there are at least 500 posts are still lying vacant.

5.7. For that there being various scheme issued by the Govt. of India from time to time regarding granting temporary status and regularisation, the action on the part of the respondents in

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not extending the said benefit to the present applicants is illegal, violative of equality cause enumerated in the constitution of India.

5.8. For that any view of the matter the action/inaction on the part of the respondents are illegal, arbitrary and violative of the settled principles of administrative fair play under the Service Jurisprudence.

The applicants crave leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of the hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants declare that they have exhausted all the remedies available to them and there is no alternative remedies available to them.

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

The applicants further declare that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them. In view of certain management restructuring occurred in the administration of the respondents the applicants have come under the protective hands of the Hon'ble Tribunal seeking urgent relief.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that the instant application be admitted records be called for and after hearing the parties

on the cause or causes that may be shown and on perusal of the records be grant the following reliefs to the applicants:

8.1. To direct the respondents to reinstate present applicants in their services as casual employee (group-d) in the light of the judgement passed in GC No. 112/87 which was subsequently upheld by the Hon'ble Apex Court with retrospective effect including all consequential service benefit.

8.2. To direct the respondents to grant the benefit of the scheme and to regularise their service after granting temporary status.

8.3. Cost of the application.

8.4. Any other relief /reliefs to which the present applicant is entitled to under the facts and circumstances of the case.

8. Interim order prayed for.

The present applicants pray before this Hon'ble Tribunal for an interim order directing the respondents mainly the respondents No.3 to engage the present applicants against the vacant posts meant for Casual/Daily Rated Mazdoor during the pendency of the OA.

10. *****

11. PARTICULARS OF I.P.O.:

1. I.P.O. No. : 66-792099

2. Date : 9-5-2001.

3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the INDEX.

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VERIFICATION

I Shri Babul Ch. Deka, son of Late Haliram Deka, aged about 33 years resident of village Bezera, Dist-Kamrup, Assam. do hereby verify and state that the statements made in paragraphs 1,2,3, 42-45, 47-411, 417, 418, 421, 422, 428-430 and ^{5 to 12} are true to my knowledge and those made in paragraphs 43, 46, 412-416, 419-420, 423 to 427 are true to my legal advice and I have not suppressed any material facts. I am also duly authorised by the other applicants to sign this verification on their behalf.

And I sign this verification on this the ^{11th} day of MAY 2001.

✓

212/16/6364

Sl. No.	Name of the applicant	working from	age
1.	Shri Babul Chandra Deka,	2.4.84	29
2.	Shri Tilok Deka	1.7.85	29
3.	Shri Karuna Kalita	1983	32
4.	Smti. Kharsali Marak	1.5.85	30
5.	Shri Madan Baishya	June, 1981	30
6.	Smti. Schebani Sangma,	7.9.83	30
7.	Smti. Jumrit Sangma	2.2.85	30
8.	Shri Fomingston Momin	Feb. 1984	28
9.	Shri Mandiram Marak	Feb. 1985	28
10.	Shri Kamleswar Kalita	Mar. 1982	32
11.	Shri Kamarjan Shylla	1983	28
12.	Smti. Joltimora Lakhia	Aug. 1983	29
13.	Shri Korna Bahadur Vishwakarma	1984	40
14.	Shri Dil Bahadur Darjee	June 1980	35
15.	Smti. Aidarlin Nongram	April 1983	32
16.	Shri Melita Lakhia	-do-	45
17.	Shri Mon Bania	-do-	39
18.	Shri Khim Bahadur Thapa	1976	38
19.	Smti. Sarada Devi	1984	30
20.	Shri Chandra Bahadur chetri	1984	29
21.	Smti. Devrupa	1985	40
22.	Smti. Nanda Kumary	1985	42
23.	Smti. Elizabeth War	1985	37
24.	Smti. Merry Nowlong	1984	39
25.	Smti. Leena Mowlong	1985	28
26.	Shri Chabilal Chetri	1984	45
27.	Shri Laxman Chetri	1983	42
28.	Smti. Thrina Kurba	1983	33
29.	Shri Harmohan Das	1984	30
30.	Smti. Rajina Thengkiew	1984	26

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Advocate.

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31. Smti. Sonali Sangma	1983	30
32. Smti. Krostina Rapsang	1984	45
33. Smti. Sabitry Devi	1984	41
34. Smti. Bila Kurbah	1983	35
35. Shri Bishnu Sarmah	1989	36
36. Smti. Aatilesh Kharkongar	1984	39
37. Shri Padum Bahadur Chetry	1981	46
38. Shri Gurudev Kalita	1983	29
39. Shri Ophing Sangma	1983	31
40. Shri Ranapal Marak	1983	38
41. Shri Lohit Das	1982	35
42. Smti. Sarala Kalita	1982	30
43. Shri Prem Bahadur Soner	1984	36
44. Shri Hemen Das	1983	31
45. Shri Barun Das	1983	33
46. Shri Prafulla Borah	1982	35
47. Shri Shriram Brahma	1984	38
48. Smti. Jayanti Brahma	1984	32
49. Shri Ratneswar Koch	1983	30
50. Shri Gakul Kalita	1983	28
51. Shri Laxman Thapa	1983	29
52. Shri Kharbeswar Kurmi	1984	30
53. Shri Arun Baruah	1983	35
54. Shri Thaneswar Kalita	1983	31
55. Shri Ajit Das	1983	38
56. Shri Harka Bahadur Gurung	1983	38
57. Shri Krishna Bahadur Chetry	1983	33
58. Shri S. Ahmed	1981	33
59. Shri Anil Patgiri	1983	33
60. Shri Babul Chandra Sharmah	1983	26
61. Smti. Dam Merry	1984	38

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62. Shri Moringston Sangma	1984	34
63. Shri Niksen Marak	1984	32
64. Shri Narayan Sarmah	1982	30
65. Smti. Maria Marak	1984	34
66. Shri Altaf Choudhury	1983	32
67. Shri Bishnu Kalita	1983	31
68. Smti. Dipa Fawa	1982	21
69. Smti. Dipa Baruah	1985	27

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Attest.
Advocate
Advocate

Attest.
Advocate
Advocate

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E. REGION
"CEDAR LODGE" DHANKHETI, SHILLONG - 3

No. RC (u) 16/86

Dated Shillong, the 5th April, 1986

N O T I C E

The casual labourers of ICAR Research Complex Farm, Barapani have been absenting themselves from duty with effect from 2nd April, 1986 without any prior notice causing abrupt stoppage of all farm activities and loss of valuable research materials, germplasm and experiments. This will have very adverse effect on the on-going research projects and will cause immense loss to the farmers of the North Eastern Region in general and Meghalaya in particular. In the interest of public service, the ICAR cannot afford to such illegal activities and absenteeism etc. by the labourers resulting in stoppage of work in the Research farm at Barapani.

In order to carry on the various important research activities in the ensuing cropping season and also to protect the animals from any ill-treatment, it has been decided that :-

1. if the casual labourers fail to report for their duty w.e.f. 7th April, 1986, necessary alternative arrangement will be made to manage the work of the farm in their absence.
- ii. Consequently, the absenting labourers will have no claim whatsoever for their further engagement in the ICAR Research Complex for N.E.H. Region in future.
- iii. The labourers who will be reporting for duty from 07/04/86 will be required to give an undertaking that they will not resort to any illegal activities in future.

Advocate
Advocate.

Sd/ ILLIGIBLE

(R. N. Prasad)
Director.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

C. C. NO. 112 of 1987

Sri Devilal Sarma

- Applicant

- VRS -

Union of India and Ors.

- Respondent .

PRESENT :

The Hon'ble Justice Shri D. Pathak Vice-Chairman .
The Hon'ble Shri S.P. Hazarika, Member .

For the applicant : Mr. N.M. Lahiri, Advocate.
Mr. M.Z. Ahmed, Advocate
Smt. B. Dutta, Advocate .

For the respondents : Mr. S. Ali, C.G.S.C.
Mr. A.M. Mazumdar.

Date of Judgment : Dated : The 12th day of January, 1988.

JUDGEMENT & ORDER

PATHAK, J.

The Indian Council of Agriculture Research (hereinafter referred to as ICAR) is a duly registered society governed by its own rules, bye-laws for the functioning and admittedly the administrative rules and procedures framed by the Government of India are followed. The ICAR Research Complex for North Eastern Hill Region was established in the year 1975 with Head Quarter at Cedar Lodge, Jowai Road, Shillong - 3 . headed by a Director and five Farm Complexes have been set up in various places within the State of Meghalaya, namely, at Upper Shillong, Mawlai, Burnihat, Tura and Barapani. Since the inception of the Research Complex of ICAR, many casual labourers were recruited from different parts of the North Eastern Region as well as from West Bengal and Bihar .

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Advocate.

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Advocate.

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ANNEXURE - A 2 (Contd..)

2. The petitioners, 220 in number, were engaged as casual employees in various projects under the ICAR Research Complex, Shillong. The petitioners were appointed from time to time since 1976 and many of them have their names registered with the Employment Exchanges in the North East. It is stated that most of the petitioners have completed more than two years of service and have acquired sufficient experience and knowledge in their respective jobs. It is awarded that inspite of the regular vacancies the petitioners have not been regularised and have been deprived of service benefits. It is stated by the petitioners that although according to ICAR, works to which the petitioners are engaged are of a seasonal nature but they are engaged in works of a permanent nature. The petitioners have made grievance that till July, 1985 they were made to work continuously, even on Sundays and they were thus exploited. In order to espouse their cause the workers got together to form the ICAR Workers Union in 1985. However, the Union was not registered. The Union put forth various demands before the ICAR Management and against for the same legally. One of the demands was for the regularisation of their services. The other demands were fixation of working hours, declaring Sundays as holidays and grant of overtime.

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J. D. D.
Advocate.

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ANNEXURE 2 (Contd...)

allowances, etc. It is stated by the petitioners that the works of seasonal workers was to now, weed, harvest and thrash, but the petitioners were engaged in specialised and technical nature of work all through the year. As the demands of the petitioners were not accepted by the Management they gave a strike notice in the name of the Union by a letter dated 03/10/1985. It is stated by the petitioners that the demands of the petitioners were sent to the Regional Labour Commissioner by the Management on 14.11.1985. Meanwhile, as the Management did not accede to the demands of the petitioners they resorted to pen down/tool down from 01/11/1985 to 16/11/1985. Due to the above strike the Management by an order dated 03/12/1985 deprived the wages of the petitioners for the strike period.

3. The Conciliation Proceedings which were started before the Assistant Labour Commissioner (Central), Guwahati and the letter by an order dated 27/12/1985 directed for maintaining the status quo.

The Union attended the proceedings and the Management also submitted their written statement. However, during the pendency of the Conciliation Proceedings the Management declared lock out with effect from 6/1/1986 which continued up to 31/1/1986.

The Conciliation Proceedings ended in

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ANNEXURE-2 (Contd..)

failure. The Assistant Labour Commissioner by an order dated 06/02/1986 communicated the result to the Government of India and the same was recorded by the Government on 10/03/1986.

4. It is stated by the petitioners that after the failure of the Conciliation Proceedings the Management started hardship the petitioner at the instance of the Farm Manager. It is stated that after lifting the lock out, the petitioners were directed to sign an illegal undertaking prior to being allowed to continue to work by issue a notice dated 5.4.1986 alongwith a copy of the undertaking. These are enclosed as annexure 5 and 6 to the petitioners.

It is the aforesaid notice dated 5.4.1986 which is the subject matter of challenge by the petitioners by an application under article 226 and 227 of the Constitution of India before the Guwahati High Court, The application was registered as Civil Rule No. 712 of 1986. In view of the operation of the provision of section 29 of the Administrative Tribunal Act 1985, this matter has now stood transferred to the Tribunal for adjudication.

5. At this stage we may have a look at the impugned notice and its enclosures. The notice reads as under :

" The casual labourers of ICAR Research Complex Farm, Barapani have been absenting themselves from duty with

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Advocate

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Advocate

ANNEXURE- 2 (Contd..)

effect from 2nd April, 1986 without any prior notice causing abrupt stoppage of all farm activities and loss of valuable research materials, germplasm and experiments. This will have very adverse effect on the on-going research projects and will these inimicities to the ^{of} North Eastern Region in general and Meghalaya in particular. In the interest of public service, the ICAR cannot afford to such illegal activities and absenteeism etc. by the labourers resulting in stoppage of work in the Research farm at Barapani.

In order to carry on the various important research activities in the ensuing cropping season and also to protect the animals from any ill-treatment, it has been decided that :-

1. If the casual labourers fail to report for their duty w.e.f. 7th April, 1986, necessary alternative arrangements will be made to manage the work of the farm in their absence.
- ii. Consequently, the absenting labourers will have no claim whatsoever for their further engagement in the ACAR Research Complex for N.E.H. Region in future.
- iii. The labourers who will be reporting for duty from 7/4/86 will be required to give an undertaking that they will not resort to any illegal activities in future.

Sd/ illigible

(R. N. Prasad)
Director.

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The proforma of the undertaking enclosed with the Notice is to the following effect :-

" I do hereby undertake that :-

1. I will work honestly and sincerely, and with complete devotion to my duty .
2. I will not resort to or indulge in any illegal activities that will hamper the working atmosphere in the ICAR Research Complex fare, Barapani and or cause any damage to the assets/properties of the farm, in the public interest.
3. I will follow the guide- lines of ICAR issued from time to time in regard to the management of casual labourers .
4. I will discharge my duties with due discipline and upto the entire satisfaction of my superiors.
5. I do promise and assure of exemplary behaviour with my superiors both on and outside the farm .
6. If I ever fail to observe and follow the above mentioned undertakings, I will be liable to be removed from engagement without any claim .

Attested
A Das
Advocate

tested.


Advocate.

Signature

Name in
Block letters.....

Father's
husband's name

Address ..
.....

6. The learned counsel for the petitioners has submitted that the ICAR Management has unjustly insisted on giving an undertaking by the casual employees. It is contended that these petitioners have been working for more than two years as casual employees and at the initial stage when they were engaged as such they were never asked to give an undertaking. His submission is that the present measure to insist on giving undertaking by the petitioners is quite unjust and unfair and is introduced only to harass the petitioners. The learned counsel for the petitioners has brought to our notice a statement made by the petitioners in paragraph 15 of their reply filed on 4.7.86 wherein it is stated that out of over 300 casual labourers only about 28% were made to sign the illegal undertaking thereby pointing out the respondents to have adopted discriminatory treatment against the petitioners. It is submitted that although the respondents have filed additional affidavit on 4/11/86 they have not refuted the statement made by the petitioners as aforesaid. It is submitted by the learned counsel that it is only the petitioners who are illegally asked to give an undertaking and as such the entire action is discriminatory and against justice and fair play. The further submission of the learned counsel for the petitioners is that once the petitioners are engaged as casual employees by

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Advocate.

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ANNEXURE 2 (Cont..)

the authority, they become the employee under the respondents. For all practical purpose. It is submitting that if at any time the petitioners become guilty of misconduct, then they may be proceeded against under the rules. The last submission of the learned counsel for the petitioner is that there is no rule or regulation framed by the respondents that the casual employees are to give any undertaking for being engaged in the work. In view of the aforesaid submission, the learned counsel has submitted that the action of the respondents in insisting the petitioners to give undertaking is unjust and arbitrary and the same may be quashed.

7. The respondents have filed affidavit-in-opposition as well as additional affidavit contesting the contention of the petitioners. The main burden of the averments made by the respondents in their written statements is that the petitioners had been committing some illegal activities to the extend of damaging some of the properties of the Management. In paragraph 19 of the written statement the respondents have stated that there was an agreement between the ICAR and the petitioners on account of mediation by the H Home Minister, Meghalaya. But even during this period the labourers resorted to squatting without work or sometime following go-slow with the work in flagrant violation of the agreement.

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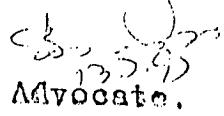
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vocate.

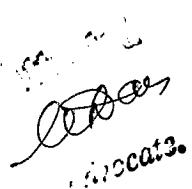
Advocate
Advocate.

It is stated that on 01/04/95 the office bearers of the so-called Union including the present petitioners who had sworn the affidavit in support of the petition assaulted mercilessly one technical staff and the Farm Manager during office hours and ransacked his office. The ICAR in order to prevent further such damage to research materials by the labourers and to prevent stoppage of the work decided to get an undertaking to be signed by the labourers before they are allowed to work. It is stated that this had to be done to ensure that they did not indulge in criminal activities.

8. Mr. A.M. Hazundar, the learned counsel for the respondents have submitted that in view of the indiscipline and illegal activities in which the petitioners were involved, they were asked to give an undertaking before allowing them to resume duties. The learned counsel has submitted that there is nothing wrong in obtaining an undertaking by the employers. It is also submitted that the conditions inserted in the undertaking to be given by the employees can by no stretch of imagination

Attested.


Advocate.


Advocate.

Contd.. P/10.

be said to be illegal and unjust. It is submitted that the employers can always insist on its employees to work with devotion and discipline and for that purpose the employers may very well ask for giving undertaking by the employers.

9. The core question for our consideration is to see whether the respondents are justified in insisting in obtaining undertaking from the petitioners. A plain reading of the proforma of the undertaking shows that the respondents are trying to obtain the undertaking from its casual employees as a matter of safeguard against any illegal activities of the casual employees. Now the main question is whether such an undertaking is necessary. Once it is found that the casual employees are also employees under the respondents they may be proceeded against for any misconduct or wrongful acts done by them. It is not unknown to the respondents that they are not taking any departmental action against their casual employees. It is seen from paragraph 10 of the affidavit-in-opposition that two casual employees who posses tractor driver licence were angaged as tractor drivers. But they were found guilty of indiscipline. Hence they were charge-sheated and after the departmental enquiry they have been dismissed from their service. Therefore, it is submitted for the petitioners that in some cases of misconduct of the casual

Attested.

Advocate.

employees the respondents have taken action by departmental proceeding against the delinquent employees. Similarly, it is seen from paragraph 15 of the affidavit-in-opposition that one Shri H.K. Deka was removed from service due to inefficiency and indiscipline. In this paragraph it is seen that action were taken against the employees in accordance with law and whenever necessary after due enquiry and proceedings. Therefore, it is not unknown to the respondents that for indiscipline and illegal activities or misconduct, action cannot be taken against the casual employees without any undertaking executed by them.

10. The above statement of the respondents regarding the system of undertaking is that the system of undertaking was introduced only to ensure discipline and sincerity among the workers. But in view of the fact that the petitioners may be proceeded against departmentally if there is no lapse on their part, it cannot be said that undertaking to be executed by the casual employees will give better safeguard to the ICAR Management. The ICAR Management is already armed with the action that can be taken by charge-sheeting such employees and having departmental proceedings against them as they have been doing by their own showing as noted above.

Tested.

S. B. Deka
Advocate.

Tested
S. B. Deka
Advocate.

Contd.. P/12..

11. As regard the contention raised by the petitioners that the impugned notice was an admission of guilt and violation of Article 23 of the Constitution of India or that it amounted to forced labour has been duly denied by the respondents. It is submitted on behalf of the respondents, that the impugned notice and asking the casual employees to execute an undertaking does not in any way become violative of the provision of article 23 of the Constitution of India. Article 23 of the Constitution Prohibits traffic in human beings and forced labour. It enjoins that there shall not be traffic in human beings and begar and other similar forms of forced labour, and any contravention of this provision shall be an offence punishable in accordance with law. The sub-article 2 of Article 23 states that nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, casts or class or any of them.

12. In the background of the aforesaid provision of Articles 23 we are to see whether the

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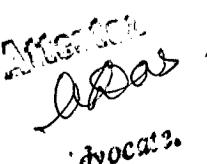
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undertaking sought to be obtained from the petitioners is in branch of the provision of article 23. On a plain reading of the contents of the undertaking sought to be taken by the respondents same to be an unnecessary burden put on the petitioners in order to get employment under the respondents. We have already adverted earlier that if there is any lapse or misconduct on the part of the petitioners they can be departmentally proceeded with as such as the fresh terms of undertaking is only unnecessary insistence on the part of the respondents to execute the undertaking by the employees which tantamounts to be an unjust and unfair burden. Further, the respondents have not shown any rule or regulation that the undertaking is necessary for any public purpose.

13. It is not disputed that when the petitioners were first entertained for the work, no such undertaking was taken from them and they continued as such for more than two years. Now it is demanded to have the undertaking, according to the respondents, due to indiscipline and misconduct. If this is so, the respondents could have proceeded against them by departmental proceeding as according to them they have done in some other cases. In the above premises, in our opinion to demand for undertaking to be executed by the petitioners is not at all justified. Therefore, we are constrained to hold that the impugned notice and to demand to have undertaking to be executed by the

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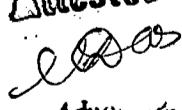

Advocate.

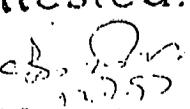
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petitioners are not sustainable in law .

14. The policy of hire and fire no longer avail now in the matter of public employment. Hunger and unemployment in whatever precarious terms it may be. But once he is in public employment he is entitled to all service benefits de hors the stringent terms with which he entered into the service. At present, service jurisprudence has made rapid stride in protecting the interest of the employees. That the casual employees are also the employees under the authority is no longer *ex parte* as *integra* Judicial decisions announced by the highest court of the land are galore in this regard, some of which we may notice.

15. For the construction of Asian Games Village Complex quite a large number of workers were engaged on casual basis. In a report of three social scientists setting out various violation of *Minister Minimum Wages Act, 1948*, the *Equal Remuneration Act 1976*, the Supreme Court entertained it as a writ petition, entitled *Peoples Union for Democratic Rights Vs Union of India, AIR 1982 S.C. 1473*. In that case the court held that even such workers are entitled to the protective umbrella and all the benefits available under the relevant labour laws. In that case court had also the occasion to deal with Article 23 of the Constitution. Dealing with the scope and contents of the Article the Court said, 'This Article strikes at every form of forced labour even if it has its origin in a contract voluntary

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 Advocate.

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 Advocate.

voluntarily entered into by the person
obligated to provide labour or service."

16. Casual workers on daily wages basis
(engaged in different Nahru Yuvak Kendras in the
country) performing the same duties as performed
by class IV employees against sanctioned posts,
came up for consideration in a petition by some
casual employees in Ghiren Chamali and another
Vs. State of U.P. 1986 (1) S.C.C. 637, on the
question whether they are entitled to equal
pay and service benefits. The upshot of the claim
by the petitioners was that they were entitled
to salary and conditions of service at par with
regular workers. In that context their Lordships
held -

" We therefore allow the writ
petitions and make the rule
absolute and direct the Central
Government to accord to these per-
sons who are employeed by the
Nehru Yuvak Kendras and who are
concededly performing the same
duties as Class IV, employees,
the same salary and conditions
of service as are being received
by Class IV employees, except
regularisation which cannot be
done since there are no sanctioned
posts. But we hops and trust that
will be sanctioned by the Central
Government in the different
Nehru Yuvak Kendras, so that these
persons can be regularised. It
is not at all desirable that any
management and particularly the
Central Government should
continue to employ persons on
casual basis in organisations
which have been in existence
for over 12 years. The salary and
allowances of Class IV employees
shall be given to these persons
employed in Nehru Yuvak Kendras
with effect from the date when
they were respectively employed."

(Emphasised by us)

Attested.

Attested
A. S. S.
Advocate.

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On the attitude taken by the Central Government that they would pay only daily wages and not the same wages as other similarly employeds, the Court said,

" This arguement lies ill in the mouth of the Central Government for it is an alltoo familiar argument with the exploiting class and a welfare State committed to a socialist pattern of society cannot be permitted to advance such an arguement. It must be remembered that in this country where there is no such unemployment, the choice for the majority of people is to serve or to take employment on whatever exploitative terms are offered by the employer. The fact that these employees accepted employment with full knowledge that they will be paid only daily wages and they will not get the same salary and conditions of service as other Class IV employees cannot provides an escape to the Central Government to avoid the mandate of equality enshrined in Article 14 of the Constitution. This artice deolares that there shall be equility before law and equal protection of the law and implicit in it is the further principle that there must be equal pay for work of equal value. These employees who are in the service of the different Nehru Yuval Kendras in the country and who are admittedly performing the same

Attested
J. S. S.
Advocate

Contd.. P/17.

Attested.

(S. S. S.)
Advocate.

ANNX.- 2 (contd.)

duties as Class IV employees, must therefore get the same salary and conditions of service as Class IV employees. It makes no difference whether they are appointed in sanctioned posts or not. So long as they are performing the same duties, they must receive the same salary and conditions of service as Class IV employees.

(Underscored by us).

Similar view has also been reiterated by the Supreme Court in another decision in Surinder Singh and another vs Engineer-in-Chief C.P.W.D., 1986(1) SCC 639.

It is not the case of the respondents that other regular employees doing the similar type of work are to execute such an undertaking which is sought from the petitioners. On the setting of these facts it is unreasonable to insist on the petitioner to execute the impugned undertaking and hence it is held that such action clearly suffers from the vice of discrimination which is prohibited by Article 14 of the Constitution. This Article enshrined in the constitution mandates that there should be equality before law and equal protection of law. The facts in the present case disclose that there is clear discrimination between the regular employees and casual employees in such as no undertaking as impugned here is taken from regular employees.

17. Here we may also mention that in a miscellaneous application registered as

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Advocate.

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Contd.. P/18.

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ANNEX-- 2 (Contd.)

Misc. Case No. 869 of 1986 (In Civil Rule No. 712 of 1986) filed by the petitioner before the Gauhati High Court for allowing the petitioners to resume their duties forthwith without any pre-condition, the court passed an order on 04/07/86, the relevant portion of which reads as under :

" In the meantime the respondents shall be free to regularise the appointments of those who are entitled to such regularisation. The respondents may in the meantime employ the casual employees/worker without imposing any condition. However the employees, who may be appointed, shall be liable to be dismissed or discharged and action may be taken if they violate the discipline of the Institute. It would be open to the respondents to appoint such workmen or employees as may be considered necessary by them. This is an ad-interim order.

The aforesaid order is still in effect. The respondents did not take any step to vacate or modify the aforesaid order. Hence the respondents are not justified in not giving any effect to the order passed by the High Court in allowing the petitioners to resume duties without pre-conditions.

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Advocate

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Advocate

ANNX.- 2 (Contd..)

18. After the hearing was concluded, the respondents have filed an additional affidavit it is stated .

" That as advised the respondent no. 2 has decided not to give effect to impugned undertaking (Annexure 6 to the application".

In view of this categorical statement the impugned undertaking sought to be taken from the petitioners have become infructuous .

In the said affidavit in paragraph 3 the respondents have stated as under :

" That the deponent begs to bring to the notice of the Hon'ble Tribunal the fact, that in the conference of the Directors of the I.C.A.R. held at New Delhi on 30th and 31st of October, 1986 it was decided to abolish the system of appointing casual labourers. The provision was however made to employ the casual labourers who are in employment for more than ten years. It was also decided to get the works done through contract system. As per the aforesaid decision in the Directors' Conference, the contract system was introduced in the I.C.A.R. Shillong introduced the contract system. The contractors are selected through tender system. The deponent further begs to state that the service of the casual labourers who had joined after the undertaking have been placed at the disposal of the contractors. In view of the decision of the Counsel, the I.C.A.R. Shillong has no authority to retain or appoint casual labourers. The deponent, however, undertakes to help the petitioners who are casual labourers to get employment under the contractors, who have been engaged for the work under the I.C.A.R. Shillong ."

Attested.
2. 12. 1987
Advocate.

Attested
J. D. Das
Advocate.

To the aforesaid statement they have also enclosed the minutes of the proceedings of the Directors' Conference dated 30th and 31st October, 1986.

This statement has been made at a stage after the hearing was completed and about which the petitioners did not have any knowledge nor any opportunity given to them to contest the stand sought to be taken by the respondents. We are constrained to hold that such unilateral and novel decision prejudicial to the service condition of the petitioners cannot bind the petitioners during the course of their employment and that too when the matter is subjudice since 27/6/86 when the petition was filed in the Gauhati High Court and the said petition having been admitted on 4/7/86. Therefore any decision purported to have been taken on 30th October, 1986 in the conference of the Directors of I.C.A.R. to effect a change in mode of employment cannot fasten the petitioners, with such conditions.

19. On consideration of the entire matter, after hearing the learned counsel for the parties and for reasons stated above, we are of the opinion that the impugned notice and the proforma of the undertaking enclosed therewith are not sustainable in law. Accordingly they are quashed. Now the respondents are directed that the petitioners be allowed to resume their duties with effect.

78
with immediate effect without any undertaking to be executed by them .

The petitioners shall be deemed to be in continuous service since the date they were not allowed to resume their duties with all service benefits .

As regards the claim for regularisation of the service 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 service in accordance with law .

20. In the result the application is allowed. 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 .

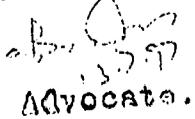
We pass no order as to cost .

Sd/ Illigible,
MEMBER.

Sd/ Illigible,
VICE CHAIRMAN .

Certified to be True Copy
Sd/ Illigible
Deputy Registrar (Judicial)
Central Administrative Tribunal
Guwahati Bench .

Attested.


Advocate.


Attested
Advocate.

IN THE SUPREME COURT
CIVIL/ CRIMINAL/APPELATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL(CIVIL)NO. 5159
of 1988 (Petition Under Article 136(1) of the Constitution of India for Special Leave to Appeal from the Judgement and order dated the 12th January, 1988 of the Central Administrative Tribunal, Gauhati Bench at Gauhati in Gauhati Case NO.112 of 1987)

CIVIL MISCELLANEOUS PETITION NO. 10352 of 1988

(Application for stay by notice)

The Director, Indian Council of Agriculture Research ICAR,
Meghalaya & Aur.

.... PETITIONERS

- VERSUS -

Shri Devi Lal Sharma & Ors. Respondents

(FOR FULL CAUSE TITLE PLEASE SEE
SCHEDULE 'A' ATTACHED WITH
FINAL ORDER DATED ~~18/08/1988~~ 18/08/1988).

JANUARY , 1990

CH.M. :

HON'BLE Mr. JUSTICE L.M. Shinde.
Hon'ble MR. JUSTICE

FOR the Respondents
Nos. 1 to 220

For the Petitioner : Mr. H.J. Kaushik, Advocate

For the Respondents
Nos. 1 to 220 : M/S S.K. Jain and S.K. Nandy,
Advocate.

THE PETITION FOR SPECIAL LEAVE TO APPEAL AND THE APPLICATION FOR PRAY above mentioned being called on for hearing before this Court on the 20th day of February, 1990 UPON hearing counsel for the appearing parties herein THIS COURT ORDER That the Petition for Special Leave to Appeal above mentioned, be and is hereby dismissed and consequently order of this Court dated the 18th August, 1989 in Civil Miscellaneous

Attested.

Attested
Advocate

Attested
Advocate.

Contd.. P/2..

- 48 -

~~50~~

- 1 -

ANNEXURE-3 (Contd..)

Petition No. 10332 of 1988 suspending conditionally the operation of Judgement and Order dated 12th January 1988 of the Central administrative Tribunal Gauhati Bench at Gauhati in Gauhati Case No. 112 of 1987 be and hereby vacated;

AND THIS COURT • FURTHER ORDER that this order be punctually observed and carried into executeed by all concerned .

WITNESS THE Hon'ble Shri Sabyasachi Mukherji, Chief Justice of India at the Supreme Court, New Delhi, dated this the 28th day of February, 1990.

Sd/ Illigible .

Attested
J. Das
Advocate

Attested.

15/2/97
Advocate.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI-6.

ANNEXURE - 4

O.A. 230/93

Smt. Maya Thappa & Others Applicants

- VS -

Union of India & Others Respondents

P R E S E N T

THE HON'BLE JUSTICE SHRI S. HAQUE, VICE CHAIRMAN,
THE HON'BLE SHRI G. L. SANGLYINE, MEMBER (ADMN.).

For the Applicants Mr. B.K. Sharma,
Mr. P.C. Goswami,
Mr. Sheikh Muktar.

For the Respondents Mr. S. Ali, Sr.C.O.S.C.

26.7.94

Learned counsel Mr. counsel Mr. P.K. Tiwari on behalf of the applicants submits for disposal of the case with liberty to submit representation before the Director, ICAR, Barapani with their grievances. Sr. C.O.S.C. Mr. S. Ali has got no objection.

This application is disposed of with the following order :

The application Smt Maya Thappa, General Secretary, Indian Council of Agricultural Research Workers' Union, Barapani is at liberty to file representation before the Director, ICAR with grievances of the members of the Union. In the event of submission of such representation, the Director will examine their representation accordingly.

This application is disposed of with the above order.

Inform all concerned.

Sd/- S. HAQUE
VICE CHAIRMAN

Sd/- G.L. SANGLYINE
MEMBER (ADMN.)

Memo No. : 3754 Date: 1/8/94.

Copy for information & necessary action to :

- (1) Smt Maya Thappa, General Secretary, Indian Council of Agricultural Research Workers' Union, Barapani, Meghalaya.
- (2) The Director, Indian Council of Agricultural Research Complex, North Eastern Hill Region, Cedar Road, Shillong - 3.

Attested.

Advocate.

Sd/- Eligible,
SECTION OFFICER(J)

77
I.C.A.R. WORKERS UNION
HEAD QUARTER UMIAM, MEGHALAYA
REGD. NO. 75

Ref. No. I.C.A.R./W.U./94/41

Dated : 27/08/94.

To,

The Director,
I.C.A.R. Research Complex,
N.E.H. Region, Barapani.

Sub :- Representation for consequential benefit pursuant to the judgement rendered by Hon'ble C.A.T. Guwahati Bench in O.A. NO.112/87 and affirmed by the Hon'ble Supreme Court in SLP(C) No. 5159/88.

Ref :- Order dtd. 26-7-94 passed by the Hon'ble Cat, guwahati Bench in No. 15/93 in OA No. 112/87 and OA No. 230/93 .

Respected Sir,

With reference to above , I , with due deference and perform submission beg to state the following on behalf of ICAR Workers Union for your kind perusal, favourable consideration and necessary action thereof:

1. That we are happy on your taking over charge as the Head of the organisation and we are sure that under your able guidance the organisation will prosper further. Plight of the workers, We are making this representation for redressal of our grievances as per direction of the Hon'ble C.A. Tribunal, Guwahati Bench in CP No. 15/93 arising out of OA No. 112/87 and OA No. 230/93. The said Contempt petition was filed against the erstwhile Director for not implementing the Judgement referred to above in letter and spirit. The OA No. 230/93 was filed for extending some benefits arising out of the above judgements to 70(Seventy)casual workers. The Hon'ble Tribunal was of the view that because of the changed circumstances we should make a representation to your honour for redressal of our grievances. Hence this representation .

Copies of the orders dtd. 26-7-94 in CP No.15/93 and OA No. 230/93 are enclosed .

ested.
27-7-94
12-8-94
70-8-94
11-9-94

Contd..P/2..

- 2 -

2. That by now you must be aware that the services of the casual workers were dispensed with in 1986 by the administration on the ground of resorting to illegal a strike. However, the Hon'ble CAT, Guwahati Bench was pleased enough to allow our case with direction to allow the workers to resume their duites forthwith with further direction that the workers would be deemed to be in continuous service with all the service benefits from the date they were not allowed to join their duties. As regards regularisation of service the Hon'ble Tribunal made the observation that the authorities would be take necessary steps for regularisation of the service of the casual workers in accordance with law .

Copies of the Judgements of Hon'ble CAT and Supreme Court are enclosed herewith for ready reference.

3. That pursuant to the aforesaid Judgement and orders we should be deemed to be in continuous service with all consequential service benefits. Our services are also required to be regularised in accordance with law. At least we are entitle to wages at the rate equivalent to the minimum pay in the pay scales of the regular employed workers in the corresponding cadres as has been laid down by the Hon'ble Suprme court in number of cases. However, most unfortunately, not to speak of regularisatision of our services we have even not been paid the wages at the above rate. We are also not being given the benefit of paid holidays. Furthem , we have also not been paid arrear wages for the per-iod 1988(February) to 1990 (May). We have also not been paid bonus for the said period. Some of us (24 workers)have also not been paid full arrear wages in as much as some of them have been paid Rs.-1,100/- and some have been paid Rs.- 500/- only as arrear wages although they are entitled to much more .

4. That some workers pursuant to the aforesaid judgment could not join their duites with the stipulated time given by the administration. However, when they reported for duty after the stipulated time they were not allowed to do so in a most inhuman manner, It may well be visulised as to what could be the plight of the workers being out of employment for long four years. Naturally all of them were not available to join their duites within the stipulated time. Such denial is unbecoming of a model employer.

Tested
B. S. S.
Advocate.

Contd. P/3

After

5. That further we beg to state that 70 (Seventy) workers a-s named in OA 230/93 could not join hands with the applicants in OA No.112/87. However, after the aforesaid judgment they are also required to be extended the same benefits as that of the applicants being similarly situated. However, they have been deprived of the same benefits and have not been allowed to join their duties on the plea that they were not applicant in OA 112/87. This clearly amounts to malpractice in as much as it is the settled principle of law that same benefits should be extended to the employees who are similarly situated with that of the applicants in a case without requiring them to approach the court again for the same relief. In this connection reference may be made with the case laws as reported in (i) 1988 (1)SLJ(CAT) 159 (ii) 1990 (3)SLJ(CAT) 182 and (iii) 1990-4 SCC-13.

This is the reason why the Hon'ble Tribunal has disposed of the OA 230/93 on 26-7-94 with direction to make representation for redressal of grievence to your goodself.

6. That we hope and trust that your honour would be kind enough to dedress our grievances without requiring us to go to the court again for further litigation. Your honour would appreciate that we are lowly paid casual workers .

In the premises aforesaid should your honour graciously be pleased to grant the following reliefs and thereby extend your prospective hands over the poor casual workers. We shall spare no pains to work upto your entire satisfaction and shall remain bound to your honour in deep gratitude.

We may please be given personal hearing towards disposal of this representation .

Accepted
A. D. D.
Advocate.

Contd. to P/4

tested.
D. O.
22.7.95
Advocate.

~~SECRET~~

- 4 -

Reliefs sought for :-

- (i) Arrear wages to the retrenched casual workers pursuant to the aforesaid judgment for the period 1988 (February) to 1990 (May).
- (ii) Bonus for the aforesaid period.
- (iii) Full arrear wages to the 24 workers left out from the above purview.
- (iv) Reengagement of 70(seventy) applicants in OA 230/890 with retrospective effect maintaining continuity in service with all consequential benefits such as in item No. IV.
- (vi) The casual workers be paid wages at the minimum of the pay scale at the rate equivalent to the minimum of the pay scale of the regularly employed workers.

With sincere regards.

Yours faithfully,

(MAYA THAPA)
General Secretary
ICAR Workers' Union.

Enclo : As stated.

Ch. Bas
Copy attached

ested.

On
13.7.97
Tyocato.

To

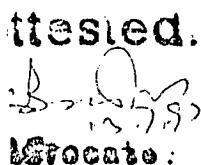
The Director,
Indian Council of Agricultural Research,
ICAR Research Complex, for N.E. Hill Region,
Shillong-193003.

Sub:- Non-disposal of representation in violation of
Hon'ble CAT, Guwahati Bench order dated 26.7.94
passed in C.P. 25/93 and O.A. 230/93.

Sir,

Upon authority and as per instruction of my client-
I.O.A.R. Workers Union, I give you this notice as follows :

1. That my client filed c.p. No. 15/93 and O.A. No.- 230/93 before the Hon'ble CAT, Guwahati Bench making a grievance against non-payment of their dues in terms of the judgment and order dated 12.1.88 passed in G.C. 112/87 and non-induction of other employees who were also similarly circumspected like that of the applicants in G.C. 112/87 respectively in respect of whom, the Hon'ble Tribunal had quashed the termination order with direction to reinstate them in service. The applicants mentioned in O.A. 230/93 are similarly circumspected like that of the applicants mentioned in G.C. 112/87 and thus they are also entitled to reinstatement in service with all consequential benefits including full back wages. Law is well settled that when some principles have been laid down in one case, the same principles should be followed in respect of others similarly circumspected without requiring them to approach the Court/Tribunal again.
2. That the Hon'ble Tribunal was pleased to dispose of the said two cases by separate orders dated 26.7.94 in terms of the order that the applicants would make representations to you and the said representations are to be disposed of by you in accordance with law. Such a direction has been issued by the

Attested.

Advocate:

Contd... P/2.

th law instead of passing any order by the Hon'ble Tribunal directly. In terms of the said orders, my client had already submitted representations which are now pending at your end for a long time. By not disposing of the said representations you have been violating and disobeying the order of the Hon'ble Tribunal. While disposing of the representations you are required to pass a speaking order as to why the other members of the Union who are yet to be reinstated in service should not be reinstated and also as to why the direction contained in G.O. 112/87 should not be implemented giving a the accrued benefit to the members of the Union.

3. That as pointed out above, the other members of the Union who could not approach the Hon'ble Tribunal in time are also required to be extended with the same benefit like that of the other members involved in G.O. 112/87. Secondly the benefits which accrued to the members of the Union pursuant to the judgment and order in G.O. 112/87 cannot be withheld. Now in terms of the aforesaid order of the Hon'ble Tribunal dated 26.7.94 passed in C.P. 15/93 and O.A. 250/93, you are required to pass appropriate order towards disposal of the representations made by my client. But it appears that you are sitting over the matter without doing anything towards disposal of the said representation and thereby you have been continuously violating and disobeying the aforesaid order dated 26.7.94 of the Hon'ble Tribunal. Your such action/ inaction has made you liable for contempt of Court proceeding.

In the premises aforesaid, I give you this notice making a demand of you to dispose of the representation of my client as has been ordered by the Hon'ble Tribunal in its order dated 26.7.94 in

Contd ..P/3.

1000
legal

ested.
Am
13.7.94
ccate.

ANNEXURE - 6 (Contd..)

C.P. 15/93 and O.A. 230/93

touching the point involved in the cases. The representation should be disposed of within a period of one month from the date of receipt of this notice failing which my client shall have no other alternative than to approach the Hon'ble Tribunal once again for drawing up contempt of Court proceeding against you and also for appropriate relief by way of damage and compensation. In such an eventuality, You will be solely responsible for the consequences thereof which may include your personal appearance before the Hon'ble Tribunal to answer the charge of contempt of the Hon'ble Tribunal.

I hope and trust that there would be no occasion for further litigation and there would be happy end to the entire episode and my client would be given their dues in due compliance of the orders of the Hon'ble Tribunal. It is really pathetic that the Group-D employees should be dragged on for litigation again and again. The members of the Union who are yet to be reinstated in service in terms of the judgement in G.C. 112/87 affirmed by the Hon'ble Supreme Court also should be reinstated without any further delay with all consequential benefits to these and the benefits which have accrued to the members of the Union should be extended to them and other existing members, without any further delay. Keeping in view this position, the representation which have been made by my client in terms of the aforesaid orders of the Hon'ble Tribunal should be disposed of within a period of one month from the date of receipt of this notice failing which the necessary consequences as has been indicated above will follow.

Thanking you,

Yours Sincerely,

Sd/ Illigible,
(B.K. Sharma)
Advocate.

31-12-94

Attested.

31-12-94
Advocate.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 174 of 1997.

Date of Order : This the 21st Day of April, 1998.

Justice Shri D.N.Baruah, Vice Chairman.

Shri G.L.Sanglyine, Administrative Member.

Shri Babul Chandra Deka & 68 others.

. . . Applicants

By Advocate Shri B.K.Sharma.

- Versus -

Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi represented by the
Director General and others.

. . . Respondents

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

O R D E RBARUAH J. (V.C)

The applicants are the members of the Indian Council of Agricultural Research Workers' Union, Borapani. Members of that Union were casual labourers and as per the order dated 12.1.1988 passed in G.C.No.112/87 the Union claimed the benefit of the said judgment in respect of the members of the said Union who were left out from the purview of the judgment. Accordingly, the Union filed C.A.No.230/93. The said O.A. was disposed of by order dated 26.7.1994 with a direction to submit a representation giving details of the claim of the members of the said Union and directed the respondents to dispose of the representation. The members of the said Union submitted Annexure-5 representation dated 27.8.94. However, the representation has not yet been disposed of. Hence the present application. In the present application the applicants who are some of the members of the said Union have approached this Tribunal seeking a direction to the respondents to reinstate them in service in terms of the judgment in G.C.No.112/87.

contd..2

Affested

A. D. S.

A. D. S.

2. We have heard Mr B.K.Sharma, learned counsel appearing on behalf of the applicants and Mr S.Ali, learned Sr.C.G.S.C for the respondents. Mr Sharma submits that the authority ought to have disposed of the representation as was directed earlier but the authority failed to comply with the said order. Mr Ali submits that because of certain difficulties the representation could not be disposed of. He further submits that if two months time is allowed the authority will be able to dispose of the representation. On hearing the counsel for the parties we dispose of this application with a direction to the respondents to dispose of the Annexure-5 representation dated 27.8.1994 in terms of the order dated 12.1.1988 passed in G.C.No.112/87 within two months from the date of receipt copy of this order.

Considering the entire facts and circumstances of the case however, we make no order as to costs.



Sd/- VICE CHAIRMAN

Sd/- MEMBER (AUMN)

Certified to be true Copy
प्रमाणित प्रतिलिपि

21.6.1998
Section Office
आनुसारी अधिकारी (सचिव)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक उचितवाण
Guwahati Bench, Guwahati-6
प.म. दृष्टि : गुवाहाटी, गुवाहाटी-6

11/2/98

Attested
A.R.A.S.
Advocate

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, Umiam.

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, Umiam.

In view of the Hon'ble Tribunal's verdict
in the objection 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 month, 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

*As per
order*

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.Sarma 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, 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 the representation alleged to have been filed on 10.2.1998 is accordingly disposed off.)

Temp Stat

On 01/05/99
N.D.Verma
Director

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

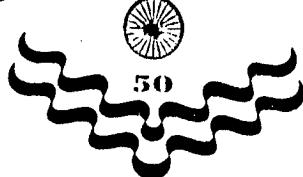
Dated the 1st May, 1999

Copy to :-

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

Despatch. No-1493
dt 03-5-99

Amritpal
Advocate



89
Registered (A)

भारतीय कृषि अनुसंधान परिषद्

उत्तर पूर्वी पर्वतीय कृषि अनुसंधान मंस्थान, उमरोई रोड, बड़ापानी, मेघालय

डा. नरेन्द्र देव वर्मा

Dr. N. D. Verma Director

B.Sc.(Ag) MSc. Ph.D. C.Biol. M.Biol. (London)

ICAR RESEARCH COMPLEX FOR NEH REGION

Umroi Road, Barapani-793 103, Meghalaya

E-Mail : ronchr@nic.in
Gram : Agriccomplex
Phone : 64257 (O)
64302 (R)
Fax : 0364-64288
0364-64501

To,

✓ Sh. B.C. Deka,
Applicant of OA/174/97
C/o Shri. Sidhartha Sarma,
Advocate, CAT, Guwahati Bench,
Rajgarh road, Bhangagarh, Guwahati.

No. RC(G) 51/97
Dated Umiam the 24th
June, 1999.

Sub : Compliance of Hon'ble CAT's verdict dt. 21.4.1998

Sir,

As per the Hon'ble CAT's verdict dated 21.4.1998, the representation of the applicant, "(Annexure-5)" was to be disposed of with terms and condition to delete the names of some members from the main list. Till date we have not heard anything regarding deletion of member's name from the main list either from you or your advocate. Also on a critical perusal of "ANNEXURE- 5" prima facie it is apparent that the Annexure in question is not the representation filed by, the Applicant of OA No.174/97 but it is the same representation "(ANNEXURE-5)" filed by Smti. Maya Thapa in OA No.40/94 and its disposal had already been communicated to Shri. S. Sarma, Advocate, CAT, Guwahati, while replying his legal notice dated 9.3.98.

Also the Sr. Farm Manager, custodian and verifying authority of Muster Roll for the labourers has communicated vide his letter No. RC/BAR/FM-1/99-2000/1841 dated 17.6.99 that the applicants of OA No. 174/97 were not on roll as on 1.9.93 and do not fulfill the policy of Rajkamal Scheme, Temporary Status Mazdoor Scheme. In any case, the representation should have been filed from the side of applicant of OA No.174/97 for the redressal of their grievances if any. Since the representation "(ANNEXURE-5)" filed in OA No.40/94 had already been disposed of and communicated to Shri. Sidhartha Sarma & Shri. B.K. Sarma Advocate of OA No.40/94 and they are also the Advocates of OA No.174/97. It is self understood that the representation in question stands disposed of.

24/06/99
(N.D. VERMA)

Attestation
L. Das.
Advocate.

OA 174/97

1.9.93

...2

Copy to :-

- 1) The Registrar, CAT, Guwahati Bench, Guwahati.
- 2) Shri. Sidhartha Sarma, Advocate, CAT, Guwahati Bench, Rajgarh road, Bhangarh, Guwahati.
- 3) Shri. K. N. Chaudhury, Ex. Sr. CGSC & Advocate, Guwahati.
- 4) Shri. J. M. Singh, Legal Advisor, Law Section, ICAR, Krishibhawan, New Delhi.
- 5) Shri. S. R. Chauhan, Section Officer, Law Section, ICAR, Krishibhawan, New Delhi.
- 6) DDG(NRM), ICAR, Krishibhawan, New Delhi.

(N.D. Verma)
Director

Amresh
Das
Advocate.

ANNEXURE-C.

I.C.A.R. WORKERS' UNION
Affiliated to AITUC
HEAD QUARTER UMIAM
MEGHALAYA
Regd. No.75
ALL INDIA TRADE UNION CONGRESS (Regd.No.1852)
NEW DELHI

2-10-97

To,

The Director, I.C.A.R.

I.C.A.R. Research Complex (N.E.H)

BARAFANI(UMIAM)

Meghalaya-3.

Sub : Prayer for implementation of order dated 24.9.97 passed
in O.A.No.40/94 (Maya Thapa Vs. U.O.I. & Ors.)

Sir,

I have the honour to draw your kind attention on the subject for favorable action at the earliest. I state the following few lines to settle the prayer of the members of the Union for regularization as Gr-D employee.

That Sir,(i) this application is submitted in reference of CAT,Guwahati, Original Application No.40/94 date of order 24th September 1997.

(ii) All these members have been working since long time and they have been conferred with temporary status w.e.f. 1993. But after 5 years till today they have not been regularised in any Gr-D posts or in the same post.

(iii) Therefore, I request you to consider the prayer of the member of the Union for regularization of their T.S.M. Posts as regular Gr-D Staff as per the 1988 Memorandum at the earliest. I shall remain ever grateful to you for the act of your

Abas.

12-10-97

— 64 —

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justice.

With best regards.

Yours faithfully

(Maya Thapa)

General Secy, I.C.A.R. Workers Union,

Meghalaya. 2.10.97.

Copy to:

1. The Director General,
I.C.A.R. KRISHI BHAWAN
New Delhi.

Dear

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,
Registration No.75 of 1991,
Office at Barapani, Shillong,
represented by its General Secretary,
Smt.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.

O R D E R.

BARUAH 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 applicant Union. They have been engaged as 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 regularization)." 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. In spite 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 heard 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 as 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 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 in spite 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 except 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 in the event a rejection order within 2 months.

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Amresh
J. Das
Advocate

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

sd/- VICE CHAIRMAN
sd/- MEMBER (A)

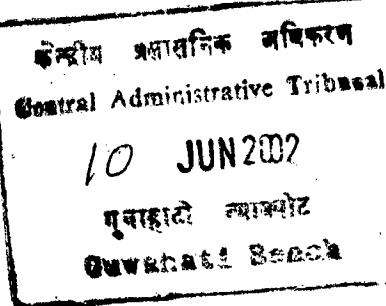
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11/11/92

Deputy Registrar (D)
Central Administrative Tribunal
for Guwahati Bench

Attested
M. Bas
Advocate.



Filed by:
Binod Chandra Deka
Advocate
10.6.02
96

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

ORIGINAL APPLICATION NO. 175/2001

Shri B.C. Deka & Ors. ... Applicants.

- Vs -

Union of India & Ors. ... Respondents.

The Respondent Nos. 2 and 3 beg to file their
written Statement as follows:-

1. That all the averments and submissions made in the Original Application are denied by the answering respondents, save what has been specifically submitted 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 the question of considering the applicants for granting them Temporary Status and subsequent regularisation in the light of various scheme framed by the Government of India, Department of Personnel and Training issued from time to time does not arise in this particular case. The judgement and order dated 21.4.98 in case of Original Application No. 174/1997 filed by Shri D.C.Deka & others has been fully implemented by the respondents vide office letter No. RC(G) 51/97 dated Umian, the 24th June, 1999. It was clearly indicated that the applicants of Original

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Application No. 174/97 were not on roll as on 1.9.1993 and do not fulfil terms and conditions of the policy of Rajkamal Scheme-Temporary Status Nazdoor Scheme. As per guidelines of Temporary Status and regularisation Scheme i.e. Scheme of Govt. of India 1993 (10.9.1993) Temporary Status would be conferred on all casual labourers who are in employment on the date of issue of this O.N.No. 51016/2/90-Estt.(C), Govt. of India, Ministry of Personnel, P.G. & Pension, Department of Personnel & Training, New Delhi, the 10th September, 1993- Rajkamal Scheme of 1993 and who had completed 240 days in the preceding one year.

Infact, prior to the present O.A. No. 175/2001, the petitioners had filed O.A.No. 230/93 and O.A. No. 174/97 and both the cases were filed to have the direction from the Hon'ble CAT, Guwahati Bench, Guwahati to the respondents to reinstate them as casual workers in the ICAR(RC) for N.E.H. Region, Barapani (Shillong) with all service benefits. However, the Hon'ble Tribunal vide their order dated 26.7.94 in O.A. No. 230/93 had given the following directions:

" The application Smt. Maya Thapa, Genral Secretary, Indian Council of Agricultural Research Workers' Union, Barapani is at liberty file representation before the Director, ICAR with grievances of the members of the Union. In the event of submission

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of such representation, the Director will examine their representation accordingly!"

(Annexure - R-1)

Later on, the petitioner filed another Original Application bearing O.A. No. 174/97 against the respondents and the application was directed against the so called illegal disengagement of the applicants from their services as casual labourers and non-application of judgement and order dated 12.1.1988 passed in G.C. case No. 112/87 (Civil Rule No. 712/85). The application was also preferred for appropriate relief to which the applicants are entitled to under the facts and circumstances of the case, more particularly in view of the order dated 26.7.94 passed in O.A. No. 230/93. In this connection it is pertinent to mention here~~that the petitioners of O.A. No. 230/93 and O.A. No. 174/97 and even in O.A. No. 175/2001 were not the petitioners in GC case No. 112/87 (Civil Rule No. 712/86)~~. As such they are/were not entitled for any relief. The respondents contested the O.A. No. 174/97 and filed written statement and the Hon'ble Tribunal had passed the following judgements in O.A. No. 174/97 on dated 21.4.98.

(i) Heard counsel for the parties. Hearing concluded. Order delivered in open court,

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kept in separate sheets. The application is disposed of. No order as to costs.

Mr. B.K. Sharma, learned counsel for the applicant submits that applicants No. 6 Achebani Sangma, 9-Mandiram Marak, 27- Laxman Chetri, 35- Bishnu Samra, 49 - Ratneswar Koch, 60 - Babul Ch. Samra, 61 - Dam Merry Robina, 68 - Birit Fawa and No. 69 Dipa Barua were not represented by the Indian Council of Agricultural Research Workers' Union in O.A. No. 230/93. Therefore Mr. Sharma submits that their names may be deleted from this O.A. with liberty to file a fresh application. Mr. S.Ali, Learned St. C.G.S.C. has no objection. Therefore, the names of these persons are deleted with liberty to file separate O.A. subject however to limitation. "Annexure -R-2".

(ii) However, in another order passed by the Hon'ble Tribunal in O.A. No. 174/97 on the same day i.e. on dated 21.4.98 the Tribunal has given the following direction to the respondents.

" On hearing the counsel for the parties we dispose of the application with a direction to the respondents to dispose of the Annexure-5 representation dated 27.8.1994 in terms of

the order dated 12.1.1988 passed in G.C. No. 112/87 within two months from the date of receipt copy of this order. Considering the entire facts and circumstances of the case however, we make no order as to costs."

- Annexure - R-3.

Accordingly the respondents had disposed of the Annexure- 5, representation of the applicants vide their letter No. RC(G) 51/97 dated 24.6.1999 (Annexure - R-4) and communicated to the applicants. But since the applicants were not satisfied, they preferred to file C.P. No. 14/99 against the respondents. The respondents had contested the C.P. also and the C.P. was dismissed by the Hon'ble Tribunal vide its judgement dated 20.2.2001. The copy of the order dated 20.2.2001 passed in C.P. No. 14/99 is being annexed as Annexure - R- 5. But the applicants were not satisfied with the disposal of the Annexure - 5 of O.A. No. 174/97 which was disposed of by the respondents on dated 24.6.1999 vide (Annexure - R-4) and preferred filing of this instant O.A. No. 175/2001 and this time the application has been directed against the so called action of the respondents in not considering the cases of the applicants for grant of Temporary Status and subsequent regularisation in the light of various schemes formulated by the respondents in this regard

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whereas, in O.A. No. 230/93 and 174/97 the applications were directed against the so called illegal disengagement of the applicants from the services as casual labourers and non-application of the judgement and order dated 12.1.1988 passed in G.C. Case No. 112/87 (Civil Rule No. 712/86). It is pertinent to mention here that petitioner of O.A. No. 230/93, O.A. No. 174/97 and O.A. No. 175/2001 were not the party in G.C. case No. 112/87 hence they are not entitled for any relief as per the judgement passed in G.C. No. 112/87 on 12.1.1988 because the direction of the Tribunal is binding in between the parties of the case only.

The original Application No. 175/2001 have been directed against the so called action of the respondents in not considering the cases of the applicants for grant of Temporary Status and subsequent regularisation in the light of various schemes formulated by the respondents in this regard. But while issuing the scheme for grant of Temporary Status to casual labourers, G.O.I. laid down certain criterion for conferring Temporary Status. The guidelines are being annexed as Annexure - R-6 for kind perusal of the Tribunal and as per the guidelines, the temporary status was to be conferred on the casual workers who were on the rolls of ICAR as on 1.9.1993 (the date of effect of the Scheme) and had completed 240 days in preceding period of one year. The petitioner of O.A. No. 175/2001 were neither

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on the rolls of ICAR as on 1.9.1993 nor had completed 240 days in preceding period of one year because they themselves had withdrawn from coming on their duties in the year 1986 and in some cases even before 1986, as such they are not eligible to be considered for conferment of Temporary Status and subsequent regularisation. In view of this respondents have rightly acted in not considering the applicants for granting temporary status and subsequent regularisation against regular posts of group D cadre. And in the light of this the present application deserves immediate dismissal by the Hon'ble Tribunal.

3. That with regard to the statement made in paragraphs 2 and 3 of the O.A., the answering respondents have no comments to offer.

4. That with regard to the statement made in para 4.1 of the O.A. the answering respondents stated that the applicants request to the Tribunal for seeking appropriate direction to the respondents to consider their cases for conferment of Temporary Status and subsequent regularisation of their services is not justified because, the Scheme for grant of Temporary Status to the casual labourers as contained in this Department's O.M. dated 10.9.1993 is a one time affair and is applicable in respect of those casual employees only who were in services on the

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date of Notification of the Scheme and had rendered on year of continuous service with at least 240 days on that date. The petitioners of the present O.A. did not fulfil the above two criteria as they were neither in service in ICAR on the date of Notification of the Scheme nor had rendered on year continuous service with 240 days rendered one year continuous service with 240 days on that date. The fact is that they are not in service in ICAR since 1986 and in some cases even prior to 1986. Hence their request for granting Temporary Status and subsequent regularisation is not genuine and likely to be rejected.

It is a fact that some of the labourers (220 in numbers) had filed a Writ Petition in Gauhati High Court bearing No. 712/86 and the said Civil Rule was subsequently transferred to the Hon'ble Tribunal and the same was numbered as G.C. No. 112/87. The Hon'ble Tribunal vide its judgement and order dated 12.1.1988 directed the respondents to allow the petitioners of G.C. No. 112/87 to resume their duties and with a further direction to treat them as on duty for the said break period. Accordingly, respondents allowed the petitioners of G.C. No. 112/87 to resume their duties and complied the orders of the Hon'ble Tribunal dated 12.1.1988. It is pertinent to mention here that the applicants of the present O.A. were not the party to G.C. No. 112/87 as such they cannot claim

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any relief on behalf of the judgement dated 12.1.1988 passed in G.C. No. 112/87, because the direction of the Tribunal is binding in between the parties ~~of~~ only.

The O.A. No. 40/94 filed by Smt. Maya Thapa & Others who had been working since 1976 to 1985 although most of them were given the benefit of G.O.I. Scheme 1988 and 1993 except their regularisation against the regular Group - D posts. The Annexure - 10-A of the present O.A. No. 175/2001 is the judgement dated 24.9.1997 passed in C.A. No. 40/94 filed by Smt. Maya Thapa and Others. The judgement dated 24.9.1997 was fully complied with vide letter No. RC(G) 23/94 dated 01.5.1999 and nothing has been violated so the statement made in this para is not at all related with the instant case, rather the applicant intentionally confusing the Hon'ble Tribunal.

~~It is not correct that the applicants preferred O.A. No. 174/97 praying for grant of temporary status and subsequent regularisation. In fact the said O.A. was directed against the so called illegal disengagement of the applicants from their services of casual labourers and non-application of Judgement and order dated 12.1.1988 passed in G.C. No. 112/87. However, as regards the judgement and order dated 21.4.1998 passed in O.A. No. 174/97, the respondents have also implemented and honoured the judgement and order of the Hon'ble Tribunal by issuing letter No. RC(G) 51/97 dated 24.6.1999 (Annexure - R-4).~~

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5. That with regard to the statement made in paragraphs 4.2, 4.3 and 4.5 of the ~~XXXXXX~~ O.A. the answering respondents have no comments to offer.

6. That with regard to the statement made in para 4.4 of the O.A. the answering respondents beg to state that the applicants were disengaged in 1986 and some withdrawn themselves from coming in duty even prior to 1986. The G.C.I. prepared the scheme for the benefit of casual labourers in 1988 and for conferring Temporary Status in 1993. Since the applicants were not present when the scheme were launched, the question that the applicants fulfil the required length of service for grant of benefit enumerated in the scheme prepared by the Govt. of India does not arise.

7. That with regard to the statement made in para 4.6 of the O.A. the answering respondents beg to state that the cause of filing the present case (OA 175/2001) as mentioned in this para is different and contrary to their statement in para - 1- particulars of the order against which this application is made. In this para the applicants have mentioned that this application is directed against the action of the respondents in not considering the cases of the applicants for grant of temporary status and subsequent regularisation under Group - D cadre posts. Whereas, in this para the applicants have mentioned that the present

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applicants are constrained to file the present application making a grievance against their disengagement from their services by the respondents and non-implementation of the Judgement and order passed by the Hon'ble Tribunal in G.C. No. 112/87. The answering respondents want to make it clear here that the judgement passed in G.C. No. 112/87 was fully implemented by the respondents and the petitioners of G.C. 112/87 were allowed to resume duties and were paid arrear wages etc. Since, the applicants of the present O.A. were not amongst 220 labourers who filed G.C. No. 112/87, they cannot claim any relief on behalf of the judgement dated 12.1.88 passed in G.C. No. 112/87 because as stated earlier also, the direction of the Tribunal is binding in between the parties only.

Regarding O.A. No. 230/93 and O.A. No. 174/97 respondents have already explained the facts in para 2 of their written statements.

8. That with regard to the statement made in para 4.7 of the O.A. the answering respondents beg to state that the respondents deny the allegation that services of the applicants were taken in any exploitative terms.

9. That with regard to the statement made in

contd...

para 4.8 of the O.A the answering respondents have no comment to offer.

10. That with regard to the statement made in para 4.9 od the O.A. the answering respondent state that the point raised in this para have already been replied in the aforesaid paras.

11. That with regard to the statement made in para 4.10 and 4.11 of the O.A. the answering respondents beg to state that the answering respondents deny all the allegation made against them in this para and made it clear that the labourers were paid the wages as per the orders issued by the State Govt. as well as Central Govt.'s Deptt. of Personnel Affairs.

12. That with regard to the statement made in para 4.12 and 4.13 of the O.A. the answering respondents beg to state that the applicants have not correctly stated the matter and all these points were already replied in G.C. No. 112/87. And further all these points were raised in G.C. No. 112/87 by the applicants of the case and the same were defended by the respondents. However, the present applicants of O.A. No. 175/2001 were not the party to G.C. No. 112/87.

13. That with regard to the statement made in para 4.14 of the O.A. the answering respondents have no comments to offer.

14. That with regard to the statement made in para 4.15 and 4.16 of the OA the answering respondents beg to state that the direction of the Hon'ble CAT was fully implemented by the respondents and the applicants of G.C. No. 112/87 were taken on duty as per the direction of the Court.

15. That with regard to the statement made in para 4.17 of the OA the answering respondents beg to state that it is a fact that after dismissal of Special Leave appeal (Civil) case No. 5159 of 1998, the verdict passed by the Hon'ble CAT, Guwahati in O.A. No. G.C. 112/87 was implemented by the respondents and to comply the verdict, the respondents have published a Notice in the NEWS paper on 21.4.90 and informed the applicants of G.C. No. 112/87 that they will be allowed to resume duties with immediate effect without any undertaking to be executed by them. It was also mentioned that 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 petitioners were directed to report to Sr. Farm Manager, Barapani within one month from the date of publication of the Notice dated 21.4.90. The copy of the notice published is being annexed here at Annexure - R - 7.

16. That the answering respondents deny the correctness of the statement made in para 4.18 and 4.21 of the

OA as it is to mislead this Hon'ble Tribunal.

17. That with regard to the statement made in para 4.19 of the O.A the answering respondents state that, since the applicants of OA. No. 230/93 were not the party in G.C.No. 112/87, their request for similar relief as has been granted in G.C. No. 112/87 was not justified, because, the direction of the Hon'ble CAT, Guwahati passed in G.C. No. 112/87 was binding in between the parties only.

18. That with regard to the statement made in para 4.20 of the O.A. the answering respondents state that the Hon'ble Tribunal passed judgement on 24.7.1994 in O.A. No. 230/93 and directed the respondents that in the event of submission of such representation, the Director will examine their representation accordingly. The respondents have examined the representation dated 27.8.1994 but since their demands were not justified, the same was not acceded to.

19. That with regard to the statement made in para- graph 4.22, 4.23 and 4.24 of the O.C. the answering respondents state that it is a fact that the present applicants had also filed O.A. No. 174/97. But while delivering the judgement, the Hon'ble Tribunal vide its judgement dated 21.4.1998 deleted the names of 9 petitioners shown in the list of petitioners of O.A. No. 174/97 at Sl. No. 6, 9, 27, 35, 49, 60, 61, 68 and 69 on the request of the counsel of the

applicants. However, the judgement passed by the Hon'ble Tribunal in O.A. No. 174/97 on dated 21.4.98 was fully complied with by the respondents vide their order dated 24.6.1999 which is being annexed as Annexure - R - 4.

20. That with regard to the statement made in para 4.26 of the OA the respondents beg to state that the averments made by the applicants in this para that they are entitled to get the benefit of the judgement and order dated 12.1.88 passed in G.C. No. 112/97 is misleading because the applicants were not the party in G.C. No. 112/87 hence their claim is not justified. However, the direction of the Hon'ble CAT is binding in between the parties only. The respondents have also acted rightly while disposing the representation Annexure - 5 of O.A. No. 174/97 and there is no question of any contrary action by the respondents. Respondents deny that any assurance to the present applicants were given. Respondents while implementing the judgement always keep in mind that no violation occurs on the part of the respondents.

21. That with regard to the statement made in para 4.27 of the OA the answering respondent state that in this para the applicants are trying to side-track the issue. In fact all the applicants of G.C. No. 112/87 who were invited and reported for duty were allowed to resume their duties. The O.A. No. 40/94, O.A. No. 174/97 were on different issues

and has been decided by the Hon'ble Tribunal on its merits. However, the direction of the Hon'ble CAT in O.A. No. 174/97 regarding considering and disposing the representations has been fully complied with by the respondents.

22. That with regard to the statement made in para 4.28 of the original application, the answering respondents state that it is correct that the Council issued letter No. 21-21/95-CLN dated 7.4.1997 but when the present applicants are themselves withdrawn from coming on duty since 1986 and even prior to 1986, how the benefits of the Schemes launched after their discontinuation can be extended to them is not understood.

23. That with regard to the statement made in para 4.29 and 4.30 of the OA the answering respondents state that the statement of the applicants that 425 posts have been sanctioned in IXth plan and now the respondents are filing these posts by daily waged labourers are misleading. As such other allegations made in this para are also denied. The fact is that there is not a single post of casual labourer is vacant. Moreover in the hours of need no casual labourer is engaged by the Institute but the work of urgent/ seasonal nature is got done on contract basis through contractors.

24. That with regard to the statement made in para 5 of the OA the answering respondent state that in view of the

facts stated in the aforesaid paras the applicants have no ground to seek any relief sought by them. Their claims are not covered under any legal provisions.

25. That with regard to the statement made in para 5.1 of the OA the answering respondents do not agree that the letter dated 1.5.1999 and 24.6.1999 issued by the respondents are illegal, arbitrary and in violation of the principles of Natural justice and request the Hon'ble Tribunal to uphold the same.

26. That with regard to the statement made in para 5.2 of the OA the answering respondents state that it is not correct on the part of the applicants to state that the respondents of their own should have extended the benefit of the judgement passed in G.C. No. 112/87 to them when they fully know that they were not the party in that case and the direction passed by the Hon'ble CAT in G.C. No. 112/87 was only for the petitioners of the case G.C. No. 112/87.

27. That with regard to the statement made in para 5.3 of the OA the answering respondents want to make it clear that the representation of the applicants of O.A. No. 174/97 was considered and disposed off giving full cognizance to the Hon'ble CAT order dated 21.4.1998 in which it was mentioned " to dispose of the annexure - 5 representation

contd

dated 27.8.1994 in terms of the order dated 12.1.1988 passed in G.C. No. 112/87" and the respondents have rightly complied it. The direction of the Hon'ble Tribunal in G.C. No. 112/87 was as under :-

~~" 20. In the result the application is allowed. 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."~~

Since the present applicants are not the petitioners of G.C. No. 112/87, they are not entitled for the benefit of judgement dated 12.1.1988 that too after a lapse of more than 14 years.

28. That with regard to the statement made in para 5.4 of the OA the answering respondent state that in the judgement dated 26.7.1994 in O.A. No. 230/93 the Hon'ble CAT has directed the respondents to examine and consider the representation if submitted by the applicants. The representation dated 27.8.1994 submitted by the applicants was examined and considered but their request could not be succeeded to because the same was not permissible under the rules and judgement dated 12.1.1988 passed in G.C. No. 112/87.

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29. That with regard to the statement made in para 5.5 of the OA the answering respondents state that the contention of the applicants is not covered in the judgement dated 12.1.88 passed in G.C. No. 112~~87~~87.

30. That with regard to the statement made in para 5.6 of the OA the answering respondents state that in this para the applicants have clearly mentioned that the respondents should have re-engage them. It means they accept that they are not on the rolls of ICAR since 1986 and this present application has been ~~now~~ made against the action of the respondents in not considering the present applicants for grant of Temporary Status and subsequent regularisation as per item No. 1 of original application for which the present applicants do not fulfil the eligibility criteria as per the guidelines contained in G.O.I. Memorandum No. 51016/2/90 - Estt. (C) dated 10.9.1993 (Annexure - R -6)

31. That with regard to the statement made in para 5.7. of the OA the answering respondents beg to state that the question of granting Temporary Status and subsequent regularisation is applicable for the casual labourers who are in the rolls of ICAR on 1.9.93 and have rendered atleast 240 days in the relevant preceding one year period but the present applicants have withdrawn themselves since 1986 and even prior to 1986, they are not entitled for extending the benefit of 1988 and 1993 Schemes.

32. That with regard to the statement made in para 5.8 of the OA of the answering respondents state that in view of the position explained in para 24 to 31 the action/inaction of the respondents cannot be considered as illegal, arbitrary and violative of settled principles of Administrative fair play under the service jurisprudence.

33. That under the facts and circumstances stated above, it is respectfully prayed that the instant application is debared from any merit and, as such, is liable to be dismissed with cost.

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

I, Shri K.M. Bujarbaharh son of Shri Late A.M. Bujarbaharh, aged about 50 years, presently working as Director, Indian Council of Agricultural Research Complex, N.G.M Region, Umroi Road, Barapani, do hereby verify that the statements made in para 1 to 32 are true to my knowledge, belief and records derived therefrom and I have not suppressed any material facts.

Place Umroo

Date 3/6/02

Signature.

O.A. 230/93

Smt. Maya Thappa & Others Applicants

- VS -

Union of India & Others Respondents

P R E S E N T

THE HON'BLE JUSTICE SHRI S. HAQUE, VICE CHAIRMAN,
THE HON'BLE SHRI G. L. SANGLYINE, MEMBER (ADMN.).

For the Applicants Mr. B.K. Sharma,
Mr. P.O. Goswami,
Mr. Sheikh Muktar.

For the Respondents Mr. S. Ali, Sr.G.S.C.O.

26.7.94 | Learned counsel Mr. counsel Mr. P.K. Tiwari on BEHALF of the applicants submits for disposal of the case with liberty to submit representation before the Director, ICAR, Borapani with their grievances. Sr. G.G.S.C. Mr. S. Ali has got no objection.

This application is disposed of with the following order :

The application Smt Maya Thappa, General Secretary, Indian Council of Agricultural Research Workers' Union, Borapani is at liberty to file representation before the Director, ICAR with grievances of the members of the Union. In the event of submission of such representation, the Director will examine their representation accordingly.

This application is disposed of with the above order.

Inform all concerned.

Sd/- S. HAQUE
VICE CHAIRMAN

Sd/- G.L. SANGLYINE
MEMBER (ADMN.)

Registered with AD.

Memo No. : 3704 Date: 1/9/94. Copy for information & necessary action to :

- (1) Smti Maya Thappa, General Secretary, Indian Council of Agricultural Research Workers' Union, Borapani, Meghalaya.
- (2) The Director, Indian Council of Agricultural Research Complex, North Eastern Hill Region, Cedar Road, Shillong - 3.

Sd/- TILLIGIBIA,
SECTION OFFICER

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:::GUWAHATI
O.A. No. 174/97
Smti. B.C. Deka & Ors. (92)
Versus 22
Union of India & Ors. -

Applicants
Respondents

PRESENT -

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

For the Applicants : Mr. B.K. Sharma,
Mr. M.K. Choudhury &
Mr. S. Sarma, Advocates.

For the Respondents, Mr. S. Ali, Sr.C.G.S.C.

21-4-98 Heard counsel for the parties.

Hearing concluded. Order delivered in
open Court, kept in separate sheets.

The application is disposed of. No order
as to costs.

Mr B.K. Sharma, learned counsel for
the applicant submits that applicants
No. 6 Schebani Sangma, 9-Mandiram Marak,
27-Laxman Chetri, 35-Bishnu Sarma, 49-
Ratneswar Koch, 60-Babul Ch. Sarma, 61-
Dam Merry & Robina, 68-Birit Fawa and
No. 69 Dipa Barua were not represented
represented by the Indian Council of
Agricultural Research Workers' Union in
O.A. no. 230/93. Therefore Mr Sharma
submits that their names may be deleted
from this O.A. with liberty to file a
fresh application. Mr S.Ali, learned Sr.
C.G.S.C has no objection. Therefore, the
names of these persons are deleted with
liberty to file separate O.A. subject
however to limitation.

TRUE COPY

প্রতিলিপি

10/6/98
S. D.

Sd/- VICE CHAIRMAN
Sd/- MEMBER (ADMN)

Section Officer

জনপদ্ধা অধিদায়কি (স্নায়ুক্ত) দায়িত্ব
Central Administrative Tribunal

কেন্দ্রীয় প্রশাসনিক অধিকরণ

Guwahati Bench, Guwahati

পাতার নং ১১৪৩০, পুরাণা নং ৫

10/6/98
S. D.

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ANNEXURE

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 174 of 1997.

Date of Order : This the 21st Day of April, 1998.

Justice Shri D.N.Baruah, Vice Chairman.

Shri G.L.Sangliyine, Administrative Member.

Sri Babul Chandra Deka & 68 others. Applicants

By Advocate Shri B.K.Sharma.

- Verus -

Indian Council of Agricultural Research,
Panchi Bhawan, New Delhi represented by the
Sector General and others. Respondents

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

O R D E R

BARUAH J.(V.C)

The applicants are the members of the Indian Council of Agricultural Research Workers' Union, Borapani. Members of that Union were casual labourers and as per the order dated 12.1.1988 passed in G.C.No.112/87 the Union claimed the benefit of the said judgment in respect of the members of the said Union who were left out from the purview of the judgment. Accordingly, the Union filed C.A.No.230/93. The said C.A. was disposed of by order dated 26.7.1994 with a direction to submit a representation giving details of the claim of the members of the said Union and directed the respondents to dispose of the representation. The members of the said Union submitted Annexure-5 representation dated 27.8.94. However, the representation has not yet been disposed of. Hence the present application. In the present application the applicants who are some of the members of the said Union have approached this Tribunal seeking a direction to the respondents to reinstate them in service in terms of the judgment in G.C.No.112/87.

contd..2

for special leave to appeal above mentioned, no and is hereby dismissed and consequently order of this Court dated the 13th August, 1998 in Civil Miscellaneous

Attest
Ch. P. Deka
Advocate

Contd. P/2.

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2. We have heard Mr B.K.Sharma, learned counsel appearing on behalf of the applicants and Mr S.Ali, learned Sr.C.G.S.C for the respondents. Mr Sharma submits that the authority ought to have disposed of the representation as was directed earlier but the authority failed to comply with the said order. Mr Ali submits that because of certain difficulties the representation could not be disposed of. He further submits that if two months time is allowed the authority will be able to dispose of the representation. On hearing the counsel for the parties we dispose of this application with a direction to the respondents to dispose of the Annexure-5 representation dated 27.8.1994 in terms of the order dated 12.1.1988 passed in G.C.No.112/87 within two months from the date of receipt copy of this order.

Considering the entire facts and circumstances of the case however, we make no order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)



E-Mail : icar@bar.assam.gov.in
 Web : www.bar.assam.gov.in
 Gram : www.bar.assam.gov.in/gram
 Phone : 03752 601
 03752 601
 FAX : 03751 61209
 03751 61209

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प्रागांशु रुपि अनुसंधान परिषद्

भारतीय राष्ट्रीय विद्यालय, गुवाहाटी, असम, भारत

Dr. N. D. Verma
 Dr. N. D. Verma
 Dated 24th June, 1999

ICAR RESEARCH COMPLEX FOR NEH REGION

Umroi Road, Burepam, 781103, Morigaon

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No. RC(G) 51/97
 Dated Umiam the 24th
 June, 1999.

To,

✓ Sh. B.C. Deka,
 Applicant of OA/174/97
 C/o Shri. Sidhartha Sarma,
 Advocate, CAT, Guwahati Bench,
 Rajgarh road, Bhangarh, Guwahati.

Sub : Compliance of Hon'ble CAT's verdict dt. 21.4.1998

Sir,

As per the Hon'ble CAT's verdict dated 21.4.1998, the representation of the applicant, "(Annexure-5)" was to be disposed of with terms and condition to delete the names of some members from the main list. Till date we have not heard anything regarding deletion of member's name from the main list either from you or your advocate. Also on a critical perusal of "ANNEXURE- 5" prima facie it is apparent that the Annexure in question is not the representation filed by, the Applicant of OA No. 174/97 but it is the same representation "(ANNEXURE-5)" filed by Smti. Maya Thapa in OA No. 40/94 and its disposal had already been communicated to Shri. S. Sarma, Advocate, CAT, Guwahati, while replying his legal notice dated 9.3.98.

Also the Sr. Farm Manager, custodian and verifying authority of Muster Roll for the labourers has communicated vide his letter No. RC/BAR/FM-1/99-2000/1841 dated 17.6.99 that the applicants of OA No. 174/97 were not on roll as on 1.9.93 and do not fulfill the policy of Rnjkamal Scheme, Temporary Status Mazdoor Scheme. In any case, the representation should have been filed from the side of applicant of OA No. 174/97 for the redressal of their grievances if any. Since the representation "(ANNEXURE-5)" filed in OA No. 40/94 had already been disposed of and communicated to Shri. Sidhartha Sarma & Shri. B.K. Sarma Advocate of OA No. 40/94 and they are also the Advocates of OA No. 174/97. It is self understood that the representation in question stands disposed of.

On 21/06/99
 (N.D. VERMA)

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Copy to :-

- 1) The Registrar, CAT, Guwahati Bench, Guwahati.
- 2) Shri. Sidhartha Sarma, Advocate, CAT, Guwahati Bench, Rajgarh road, Bhangarh, Guwahati.
- 3) Shri. K. N. Chaudhury, Ex. Sr. CGSC & Advocate, Guwahati.
- 4) Shri. J. M. Singh, Legal Advisor, Law Section, ICAR, Krishibhawan, New Delhi.
- 5) Shri. S. R. Chauhan, Section Officer, Law Section, ICAR, Krishibhawan, New Delhi.
- 6) DDG(NRM), ICAR, Krishibhawan, New Delhi.

(N.D. Verma)
Director

(FIRMS)
M.C.

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

-27/22

ORDER SHEET

Contempt APPLICATION NO. 14/99
O.A. 174/97.

OF 199

Applicant(s) Sri Babul Ch. Deka and Ors.

Respondent(s) Sri R. S. Paroda and Ors.

Advocate for Applicant(s) Mr. S. Sarma.

Advocate for Respondent(s) Mr. A. Deb Roy,
Sr. C.G.S.C.

20.2.01 This is an application under Section 17 of the Administrative Tribunals Act, 1985 for initiating a contempt proceeding for alleged wilful defiance of the judgement and order dated 21.4.1998 rendered by this Tribunal in O.A. No. 174/97. By the judgement and order dated 21.4.98 the Tribunal directed the respondents to dispose of the representation contained in Annexure-5 to the Original Application in terms of the order dated 12.1.1988 passed in G.C. No. 112/87 within the time specified. The respondents have filed its reply and stated that in terms of the order of the Tribunal the respondent authority acted upon and disposed of the representation as per law. A reasoned order was passed to that effect by order dated 24.6.99.

Heard Mr. S. Sarma, learned counsel for the petitioner and Mr. A. Deb Roy, learned Sr. C.G.S.C.

Considering the facts and circumstances it is apparent that the judgement and order of the Tribunal was complied with and the respondents disposed of the representation. Mr. S. Sarma learned counsel for the petitioner submitted that the respondents denied the relief to the applicant on the face of the proffered

Contd..

policy of the ICAR. The said contention cannot be accepted in the contempt proceeding which is specifically concerned for wilful defiance of the order of the Tribunal. If the order of the respondents is erroneous it can only be looked into in O.A or like proceeding but not in a contempt proceeding.

The contempt proceeding is accordingly dismissed.

Sd/VICE CHAIRMAN
Sd/MEMBER (ADM)

//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. PAPANDEE)
DIRECTOR

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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 '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:-

- 1) 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.

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- 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 atleast 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, provide 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 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.

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8. Procedure for filling up of Group 'D' posts:

2) 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.

TIMES SUNDAY APRIL 22 1990

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. Richelle Momin 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. Sainia Secretary of Tura Rongali Bihu Sports Committee gave away the prizes and certificates to the players 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 Devilal Sharma and Others and the verdict of the Hon'ble Central Administrative Tribunal, Gaubati in G. C. No. 112 of 1987, between Devilal Sharma and Others, the petitioners of G. C. No. 112 hereby informed that they will be allowed to resume duties 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 responsible 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