

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 25/2003.....

R.A/C.P No.....

E.P/M.A No. 86/03.....

1. Orders Sheet O.A. 25/03..... Pg. 1 to 5 ~~order pg - 1 - to - 5 Disposed 03/06/04~~

2. Judgment/Order dtd. 03/06/2004..... Pg. 1 to 4 Dismissed

3. Judgment & Order dtd..... Received from H.C/Supreme Court

4. O.A. 25/03..... Pg. 1 to 66

5. E.P/M.P. 86/03..... Pg. 1 to 4

6. R.A/C.P..... Pg. to

7. W.S. filed by the Respondents No. 1 to 13
182

8. Rejoinder..... Pg. to

9. Reply..... Pg. to

10. Any other Papers..... Pg. to

11. Memo of Appearance.....

12. Additional Affidavit in R.P. 86/03 Pg - 1 - to 6

13. Written Arguments.....

14. Amendment Reply by Respondents.....

15. Amendment Reply filed by the Applicant.....

16. Counter Reply.....

SECTION OFFICER (Judl.)

mb

Vice-Chairman

List on 12.9.2003 for hearing.

In M.F. No. 86/2003. Prayer is allowed. Played for adjournment to submit counter-
uit, Learned counsel for the respondents
-

On the prayer of Mrs. R.S. Choudhury,

13.8.2003

mb

Vice-Chairman

List again on 13.8.2003 for hearing.

Sarma, Learned counsel for the respondents.

18.7.2003

mb

Adjourned on the prayer of Mr. S.

Vice-Chairman

today.

Rejoinder, if any, within two weeks from
on 18.7.2003. The applicant may file
The case may now be listed for hearing
written statement has been filed today.
counsel for the respondents that the

20.6.2003 It has been stated by the learned

Vice-Chairman

statement.

List again on 12.6.2003 to
enable the respondents to file written

R.S. Choudhury, Learned counsel for the

counsel for the applicant and also Mrs.

2.5.2003 Heard Mr. S. Sarma, Learned

O.A. 25/2003

14.7.03

mb

No. Refund this
been held.

14.7.03

14.7.03

No. Submille
the application was
been held.

23.6.03

19.6.03

No. Within statement
been held.

1.5.04

No. Within statement
been held.

N

(3)

O.A.25/2003

Office Note	Date	Tribunal's Order
Wts has been filed. <u>25.9.03.</u>	12.9.2003	<p>Present: The Hon'ble Mr.K.V.Prahala dan Administrative Member.</p> <p>On the prayer made by Ms.U.Das, learned counsel appearing on behalf of the applicant, the case is adjourned and again listed for hearing on 26.9. 2003.</p> <p><i>K.V.Prahala dan</i> Member</p>
	26.9.2003	<p>bb</p> <p>Adjourned on the prayer of learned counsel for the applicant. List on 31.10.2003 for hearing.</p> <p><i>Vice-Chairman</i></p>
	31.10.2003	<p>mb</p> <p>List the case on 10.12.2003 along with M.P.86/2003.</p> <p><i>Vice-Chairman</i></p>
Wts has been filed. <u>19.2.04</u>	1.5.2004	<p>bb</p> <p>On the prayer of Ms. U. Das, learned counsel for the applicant, the case is adjourned. List on 12.1.2004 for hearing.</p> <p><i>K.V.Prahala dan</i> Member (A)</p>
Wts has been filed. <u>20.3.04</u>	12.1.04	<p>mb</p> <p>There was a reference Adjud to 30.1.04.</p> <p><i>K.V.Prahala dan</i> Member (A)</p>
	20.2.2004	<p>On the prayer of counsel for the applicant the case is adjourned. List on 11.3.2004 for hearing.</p> <p><i>K.V.Prahala dan</i> Member (A)</p>

Office Note	Date	Tribunal's Order
WLS has been listed.	11.3.2004	On the plea of counsel for the applicant, the case is adjourned and posted for hearing on 25.3.2004.
WLS has been listed.	25.3.2004	On the plea of the applicant, the case is adjourned and again listed on 21.4.2004 for hearing. Office to show Mr.S.Sarma & Ms.U. Das as counsel for the applicant instead of Mr.A.Ahmed, as was wrongly shown in weekly Cause List.
WLS has been listed.	29.4.04	Heard Mr S.Sarma, learned counsel for the applicant and Mrs R.S.Choudhury, learned counsel for the respondents. Hearing concluded. Judgment reserved.
	pg	

3.6.2004

Judgment delivered in open Court, kept in separate sheets. The application is dismissed. No order as to costs.

K. Prakash
Member (A)

mb

4.6.04
Copy of the Judgment
has been sent to the
ofc. for issue of the
same to the applicant
as well as to the
Advocate for the
replies.

etc.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / P.A. NO. 25 . . . of 2003.

3.6.2004.
DATE OF DECISION

Shri Abhimanyu Ghosh APPLICANT(S).

Mr S.Sarma & Ms U.Das ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

Union of India & Ors. RESPONDENT(S).

Shri K.N.Choudhury & Mrs R.S.Choudhury ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE SHRI K.V.PRAHLADAN, ADMINISTRATIVE MEMBER

THE HON'BLE

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

Judgment delivered by Ho'ble Administrative Member

Orb

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

Original Application No. 25 of 2003.

Date of Order : This the 3rd day of June, 2004.

THE HON'BLE SHRI K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

Shri Abhimanyu Gosh
S/o Ananda Ch. Gosh
Resident of Panbazar
Guwahati - 1.

... . . . Applicant.

By Advocates Mr. S. Sarma, Ms. U. Das.

- Versus -

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

By Mr. K.N. Choudhury, Sr. Advocate & Mrs. R.S. Chowdhury,
Advocate.

O R D E R

K.V. PRAHLADAN, MEMBER (A):

The applicant was employed as a Skilled Casual
Labaour in the I.C.A.R. Research Complex, N.E. Region, Shillong
in 1980. He was given work of typing. In 1985 casual
labourers of I.C.A.R resorted to strike for regularisation.
Respondents declared a lock out from 6.1.1986 to 31.1.1986.
After the lock out was lifted respondents directed 25% of the
approximately 300 employees to sign an undertaking before
they were allowed to join duty. Against this discriminatory
action G.C.No.112/87 was filed before this Tribunal. By the
judgment and order dated 12.1.1988 this Tribunal found that
the written undertaking demanded from the applicant "was not

KMP

maintainable in law." The respondents were directed to allow the applicants to resume their duties and the applicants were deemed to be in continuous service since the date they were not allowed to resume their duties, with all service benefits. The respondents were also directed to take necessary steps for regularisation of the services of the applicants in accordance with law. The respondents filed S.L.P. before the Supreme Court against the decision given in G.C. 112/87 which was dismissed by the Apex Court on 28.2.90. The applicant was among the persons who filed O.A. 230/93. In the Judgment dated 26.7.94 the applicants were directed to file representation before the Director, I.C.A.R., which did not yield any result from the respondents. Thereafter, the workers Union of I.C.A.R. filed O.A. 40/94. During the pendency of O.A. 40/94, the respondents granted temporary status to some casual workers in terms of the direction given in G.C. 112/87. In O.A. 40/94, the respondents No. 2 was directed to consider the benefits of 1989 scheme as well as the scheme of 1988. The applicants were directed to file representation and the respondents were directed to dispose of the same within two months. The employees who are yet to be regularised preferred O.A. 174/97 before this Tribunal. In the order dated 21.4.88 passed by this Tribunal the respondents were directed to dispose of the representation dated 27.8.94 at Annexure-5 in terms of the order dated 12.1.88 passed in G.C. 112/87. The respondent No. 2 vide letter dated 24.6.99

at Annexure-9 rejected the claim of the applicants made in O.A. 174/97. O.A. 175/2000 was filed by the applicants assailing the order of the respondents dated 24.6.99 for refusing to provide them the benefits conferred on who were similarly situated. In O.A. 175/2001 the Tribunal directed the respondents to give applicants the benefits rendered to the applicants of G.C. 112/87. The order of 24.6.99 was also set aside. O.A. 175/2001 is now sub judice before the Hon'ble Gauhati High Court in Writ Petition (Civil) No. 2913/2003.

2. The respondents claimed that the applicant was working as Daily Worker and no way connected with the labourers who resorted to strike. The applicant continued to work during the agitation till 21.7.87. He absented himself from 21.7.87 onwards. Therefore, the respondents claimed that the present applicant cannot be a party to the proceeding in G.C. 112/87, O.A. 230/93, O.A. 40/94, O.A. 174/1997 and O.A. 175/2001 as those cases were filed by the petitioners whose services were terminated due to labour agitation. The present applicant is no way connected with those O.A.s and therefore, not entitled to any benefits from these Judgments. The applicant is not removed from service but he unilaterally withdrawn himself from service with effect from 21.7.1987.

3. Heard Mr. S. Sarma, learned counsel for the applicant and Mrs. R.S. Chowdhury, learned counsel for the respondents at length. On persusal of the documents at

Annexures - A, B, C and D produced by the respondents, it becomes clear that he had worked continuously from 1.1.86 to 21.7.87. He was therefore not a party of the labour agitation. He apparently withdrawn himself and did not report for duty from 21.7.87 onwards. The applicant was a party to O.A. 230/93 but he was not a party to the other O.A.s mentioned above. ON the basis of the present O.A. the applicant is not entitled to any relief since his case is different from the casual labourers who went on agitation. There appears to be no linkage between the applicant and the casual labourers who were terminated after an agitation. Whether the applicant will be a beneficiary in O.A. 175/2001 will have to wait for the outcome of W.P.(C) 2913/2003 pending before the Gauhati High Court.

Barring this observation O.A. stands dismissed. No order as to costs.


(K.V. PRAHLADAN)
ADMINISTRATIVE MEMBER

संघीय नियन्त्रित विभाग
General Civil Appeal Tribunal
11 FER 203
विधायक विधान
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case 25 C.A. No. 2003 of 2003

BETWEEN

Shri Abhimanyu Ghosh Applicant.

AND

Union of India & ors. Respondents.

TABLE OF CONTENTS

Sl. No.	Particulars	Page No.
1.	Application	1 to 15
2.	Verification	16
3.	Annexure-1	17-19
4.	Annexure-2	20-40
5.	Annexure-3	41-42
6.	Annexure-4	43
7.	Annexure-5	44-46
8.	Annexure-6	48-50
9.	Annexure-7	51-53
10.	Annexure-8	54-55
11.	Annexure-9	56, 57
12.	Annexure-10	58-65
13.	Annexure-11	66

Filed by Abhimanyu Ghosh

Regn. No. 3

File No. CWN/ABHIMANYU

Date

15
Filed at
the applicant through
Alsha Das,
Advocate
10/2/03

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 25 of 2003

SYNOPSIS/ LIST OF DATES

1. 1980 The applicant got his initial engagement as Skilled Casual Employee for typing and other clerical works. He was also engaged by the Respondents as field worker under Lab to Land Programme initiated by ICAR.
2. 1985-86 ICAR Worker's Union resorted to Strikes and lock-outs to demonstrate their protest against non-consideration of their cases for regularisation.
3. Respondents terminated the services of the Union members including the applicant.
4. W.P (c) 712/86 Union preferred Writ Petition before Hgh Court against the said termination.
5. 1987 The Writ Petition was transferred to this Hon'ble Tribunal as G.C.No. 112/87.
6. 12.1.88 G.C.No. 112/87 was allowed by the Hon'ble Tribunal
7. 28.2.90 Appeal filed by the Respondents before Apex Court was dismissed.
8. 1990 onwards Some of the Union members were reinstated.
9. 1986 to 1190 Most of the members left Borapani during the period from termination to reinstatement. No formal intimation made to the applicant for such reinstatement.
10. O.A. No. 230/93 Union including the applicant preferred O.A. No. 230/93 making a similar prayer as in G.C.No. 112/87.
11. 26.7.94 O.A. No. 230/93 was disposed of directing the Respondents to consider the Representation of the applicants.
12. 27.8.94. Representation filed by the union espousing the cause of the applicant and others.
13. 30.12.94 Legal Notice demanding reinstatement of their services.

14. Union members in terms of implementation of the judgment got devided into two groups, namely
(a) Members reinstated without financial benefit
(b) Members not reinstated.

15. OA No.40/94 Group (a) praying for regularisation in terms of schemes of 1988 and 1993 filed OA.

16. During the pendency of the OA No.40/94 Group (a) got the benefit of 1993 scheme.

17. 24.9.97 OA No.40/94 disposed of directing the Respondents to consider their cases in terms of 1988 scheme.

18. OA No.174/97 Group (b) in individual capacity filed OA praying for similar relief as judgments dated 12.1.88 (G.C.No.112/87) and dated 24.9.97 (OA No.40/94)

19. 21.4.98 OA No.174/97 disposed of with a direction to consider their cases.

20. 24.6.99 Respondents rejected their claim

21. OA No.175/01 Impugning the order dated 24.6.99 and praying for reinstatement etc. the applicants of OA No.174/97 filed OA.

22. 30.9.2002 OA No.175/01 allowed declaring the judgment dated 12.1.88 (G.C.112.87) as judgment in Rem.

23. 1.11.2002 Applicant submitted representation but same is yet to be replied to.

15
Filed by
the applicant through
Globa Day
Advocates
10/2/03

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

D.A. No. of 2003

BETWEEN

1. Sri Abhimanyu Ghosh
S/o Ananda Ch. Ghosh
Resident of Panbazar,
Guwahati-1.
***** Applicant.

- AND -

1. The Union of India.
Represented by the Director General
Indian Council of Agricultural Research (ICAR),
Krishi Bhawan, New Delhi.

2. The Director
ICAR, Research Complex,
for NEH Region, Umroi Road,
Borapani, Meghalaya.
***** Respondents.

DETAILS OF THE APPLICATION

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

This application is not directed against any particular order but has been directed against the action of the Respondents in not considering the case of the applicant for grant 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 action of the Respondents in treating him differently in the matter of conferment of temporary status, whereas the other similarly

Abhisek

4

situated employees have been provided with such benefits in terms of the judgment passed by the Hon'ble Supreme Court as well as this Hon'ble Tribunal.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the present applicant has come before this Hon'ble Tribunal seeking an appropriate direction towards the Respondents to consider his case for grant of temporary status and subsequent regularisation of his service taking into consideration the various schemes formulated in this regard. The applicant was initially employed by the Respondents as a Skilled Casual Employee mainly for the purpose of typing and other clerical works in the year 1980. Apart from that the applicant used to work as a field worker under lab to land programme initiated by ICAR. The present applicant was a member of the Workers Union namely ICAR Worker's Union, Borapani and the said union espousing their cause made several attempts to secure their service conditions along with regularisation. The Union as stated above

Afrosh

17

made several representations to the concerned authority for grant of temporary status and subsequent regularisation to the concerned authority but same evoked no result in positive. Situated thus the union had to resort for strikes and lock outs to demonstrate their protest against such illegalities. The Respondents as a measure of punishment terminated the service of all the members of the union including the present applicant. The aforesaid event took place during 1985 to 1986 and against the aforesaid illegal termination the Union preferred Writ Petition 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 after hearing the parties to the proceeding was pleased to allow the said OA vide it's judgment and order dated 12.1.88 directing the Respondents to reinstate them and to treat their break service period as on duty. The said judgment was carried on appeal before the Hon'ble Apex Court and the Hon'ble Apex Court while confirming the said judgment dismissed their application vide it's judgment and order dated 28.2.90. The applicant who belongs to the lower strata of the society could not wait at Borapani from 1985 to 1990 without any job and he left to his native place, and as such he could not get the intimation regarding reinstatement. Although the Respondents knew the address of the applicant never intimated anything regarding such reinstatement. In case of other employees who got their reinstatement were never paid the back wages. Situated thus the Union once again approach the Hon'ble Tribunal making a similar prayer as in G.C.112/87. The said OA No.230/93 wherein the present applicant was also a party was disposed of with a direction to examine the representation filed by the applicants. The Union preferred representations but same evoked no result in positive and such

16

inaction lead to filing of another OA i.e. OA No. 40/94. The Respondents during the pendency of the OA 40/94 extended the benefits of the scheme of 1993 and taking into consideration the aforesaid development the Hon'ble Tribunal was pleased to disposed of the said OA vide judgment and order dated 24.9.97 directing the Respondents to consider their cases under 1988 and 1989 schemes. On the other hand persons similarly situated like the applicant who did not get the benefit of reinstatement filed OA No.174/97 before the Hon'ble Tribunal and Hon'ble Tribunal was pleased to dispose of the said OA directing the Respondents to consider their cases in terms of order dated 12.1.88 passed in G.C. No.112/87. The Respondents however refused the benefit as directed by the Hon'ble Tribunal and those applicants had to approached the Hon'ble Tribunal by way of filing OA No.175/01. The Hon'ble Tribunal after hearing the parties to the proceeding was please to allow the said OA vide it's judgment and order dated 30.9.02 directing the Respondents to reinstate these applicants forthwith fixing their pay nationally. The Respondents however inspite these factual events denied the benefit to the present applicant and hence this application.

4.2. That the applicant is citizen of India and as such the applicant is entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.3. That the applicant was initially got his appointment as a skilled Casual Worker in the year 1980 under the Respondent No.2 at Borapani. The Respondent used his service as skilled Casual Worker for the purpose of typing and other Clerical works. In addition to his aforesaid duties the Respondents utilised the

19

services of the applicant as a field worker under the lab to land programme initiated by the ICAR. The Respondents during his service tenure issued various certificates to the present applicant encouraging his sincere and satisfactory work.

Copies of the certificates are annexed herewith and marked as Annexure-1 "colly".

4.4. That the present applicant who was a member of the ICAR Worker's Union, Borapani made several attempts to get his service regularised. The Union espousing the course of their members also made several attempts to secure the service condition of their members and finally when nothing came out positive they had to resort for strikes and lock out to demonstrate their protest against such illegalities. The Respondent as a measure of punishment terminated the services of the members of the Union including the present applicant. The aforesaid event took place during 1985 to 1986 and the Union representing the interest of their members preferred Writ Petition No. 712/86 before the Hon'ble Gauhati High Court. The said Writ Petition subsequently was transferred to this Hon'ble Tribunal and was registered as G.C. No.112/87. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said OA vide it's judgment and order dated 12.1.88. In the said judgment the Hon'ble Tribunal was pleased to direct the Respondents to take back the services of the applicants with a further direction to treat the break period as on duty.

A copy of the said judgment and order dated 12.1.88 is annexed herewith and marked as Annexure-2.

28

4.5 That the Respondents being aggrieved by the said judgment preferred SLP before Hon'ble Apex Court but the said SLP was dismissed vide judgment and order dated 28.2.90 directing the Respondents to execute the judgment passed by the Hon'ble Tribunal in G.C. No. 112/87.

A copy of the judgment and order dated 28.2.90 is annexed herewith and marked as Annexure-3.

4.6. That the applicant states that pursuant to the judgment and order dated 28.2.90 the Respondents reinstated the services of some of the members of the said Union in phased manner. The applicant who belongs to the lower strata of the society however left Borapani to his native place and did not receive any intimation from the Respondents. During 1986 to 1990 all the members of the said Union were without any job and as such most of those Casual Workers left Borapani and for the said reason only the present applicant did not receive any intimation regarding reinstatement. The Respondents knowing fully well about the residential address of the applicant never made any intimation regarding such reinstatement. On the other hand the employees who got the benefit of reinstatement were not in receipt of the regular pay as well as work and stipulated thus they once again approached the Hon'ble Tribunal making a similar prayer as has been made in G.C. No. 112/87. The said OA was registered and numbered as OA No. 230/93 wherein the present applicant was also a party. The grievances raised in the said OA are similar to that of G.C. No. 112/87 and the Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said OA with a liberty to file representation before the concerned authority for redressal of the same.

21

A copy of the said judgment and order is annexed herewith and order is annexed herewith and marked as Annexure-4.

4.7. That as stated above the present applicant was also a party in the OA No. 230/93, however was never reinstated in his service even after the judgment passed by the Hon'ble Tribunal. The Union espousing the cause of the members submitted a representation dated 27.8.94 praying for redressal of their grievances. The said representation however yielded no result in affirmative and the Union served a legal notice on 30.12.94 demanding reinstatement of their services.

Copies of the said representation dated 27.8.94 and the legal notice dated 30.12.94 are annexed as Annexure-5 & 6 respectively.

4.8. That the members of the Union were thus get divided into two groups, one in the members who got their reinstatement without any financial benefit as per the judgment passed in G.C. No.112/87 and the other set of members who were never reinstated in their service. The first group through their union approached the Hon'ble Tribunal praying for the benefit of the scheme of 1988 and 1993 for grant of temporary status and regularisation by way of OA No.40/94. During the pendency of the said OA, the Respondents extended the benefit of 1993 scheme to the applicants of OA.40/94 only. The Hon'ble Tribunal taking into consideration these aspect of the matter disposed of the said OA directing the Respondents to consider their cases in terms of 1988 scheme vide it's judgment and order dated 24.9.97.

Afroz

22

A Copy of the said judgment & order dated 24.9.97 is annexed herewith and marked as Annexure-7.

4.9. That the other set of the members of the Union on the other hand preferred OA No.174/97 before the CAT, Guwahati Bench. The applicants of 174/97 however preferred the said OA on individual capacity to avoid further complication. It was also due to the fact the Respondents in their earlier proceeding raised the question of locus standi of the Union. In the said OA 174/97 the issue raised by the applicants are for granting similar relief as has been extended to the applicants of OA No.112/87. The Hon'ble Tribunal vide judgment and order dated 21.4.98 disposed of the said OA directing the Respondents to examine their cases in terms of judgment dated 12.1.88 passed in OA No.112/87.

A copy of the said judgment is annexed herewith and marked as Annexure-8.

4.10. That the Respondents after the said Annexure-8 judgment issued an order rejecting the case of the applicants on the ground that their cases were not covered by the Raj Kamal's scheme. In the said impugned order however have not mentioned regarding reinstatement of the applicants of OA No.174/97.

A copy of the said order dated 24.6.99 is annexed herewith and marked as Annexure-9.

4.11. That aforesaid Annexure-9 impugned order was subject matter in OA No.175/01 filed by the applicants in OA No.174/97. The Hon'ble Tribunal was pleased to allow the said OA vide it's judgment and order dated 30.9.02 directing the Respondents to

Dh. Chetan

23

reinstate the applicants therein providing all the other benefits arising out of such reinstatement including seniority promotion and continuity in service with notional fixation of pay. The Hon'ble Tribunal was also pleased to set aside the Annexure-9 impugned order dated 24.6.99.

A copy of the said judgment and order dated 30.6.02 is annexed herewith and marked as Annexure-10.

4.12. That the applicant begs to state that he is entitled to the benefit as has been granted to the members of the Union of both categories. The benefit extended to the members of the Union who got the benefit of reinstatement and in whose case the benefits of 1993 scheme have been extended are also similarly situated like that of the present applicant. On the other hand the members of the Union who were never reinstated and in whose case the Hon'ble Tribunal has given a specific direction for reinstatement with other consequent benefits vide Annexure-10 judgment are also similarly placed persons like that of the present applicant. On both Court the Respondent is duty bound to reinstate the present applicant in his service and to provide him the consequential benefits flowing from such reinstatement, more particularly the benefits of the 1993 scheme as has been extended to his colleagues. However, the Respondents have placed their inability in absence of any specific direction from this Hon'ble Tribunal. Situated thus the applicant having no other alternative has come before this Hon'ble Tribunal praying for an appropriate direction towards the Respondents for his reinstatement and other consequential service benefits.

Akshay

4.13. That the applicant begs to state that at the time of filing of the OA No. 40/94 and the subsequent OAs due to communication gap his name was not included as applicant in those OAs and may be due to that fact the Respondents did not consider his case. The applicant however in individual capacity made several requests to the concerned authority for consideration of his case but ultimately, the Respondents reiterating their stand rejected his claim by verbal order on the plea that he was not a party to the proceedings. The applicant in fact, submitted his address and certificates for communication of any such order but no such order was communicated to him till date. The applicant contributed in the earlier proceeding by submitting papers but as stated above due to communication gap his name was not included as one of the applicants. After the pronouncement of Annexure-10 judgment he inquired the matter in the Registry of this Tribunal to verify but unfortunately it could reveal that his name was not there as one of the applicants. Under these factual aspect of the matter the applicant preferred a representation to the authority concerned enclosing a copy of the said judgment but the representation is yet to be replied to by the Respondents.

A copy of the said representation is annexed herewith and marked as Annexure-11.

4.14. That the applicant begs to state that the law is well settled that when a judgment is passed by a competent court of law laying down the law, the authority is to implement the said judgment to all the similarly situated employees without making any differentiation. Admittedly, the applicant is a similarly situated employee like that of the members of the union and as such he is entitled to the benefit as has been extended to them.

Akhosh

25

in such an eventuality the Hon'ble Tribunal may be pleased to direct the Respondents to reinstate the applicant in his service and to grant him temporary status under schemes with all other consequential benefits flowing from the same. The Respondents now have initiated the process of reinstatement in respect the applicants of OA No. 175/01 and there is every possibility that in absent of any order from this Hon'ble Tribunal he would never be reinstated in his service and as such through this application he prays for an interim order directing the Respondents to consider his case for reinstatement provisionally pending disposal of this OA.

4.15. That this application has been filed bonafide and to secure ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the Respondents have acted illegally in not providing the similar relief to the present applicant and as such the aforesaid act is liable to be set aside and appropriate direction need be issued directing the Respondents to extend the said benefit to the present applicant.

5.2. For that the Respondents have acted contrary to the settled position of law and they being the model employer ought to have implemented the law laid down by the Hon'ble Tribunal which was affirmed by the Hon'ble Apex Court.

5.3. For that admittedly the applicant is a similarly situated person like that of the members of the Union and as such appropriate direction need be issued to provide all the benefits

20

including the benefit of Temporary Status to the present petitioner.

5.4. For that the Hon'ble Tribunal having directed the Respondents to examine the matter much earlier while disposing the OA No.230/93, it was the duty of the Respondents to examine the same in the light of the judgment passed in OA 112/87. The Respondents knowing fully about the plight of the applicant have delayed the matter and forced them to approach the doors of the Court time and again and as such their entire exercise leading to such illegalities and denial is not at all tenable and liable to be set aside and quashed.

5.5. For that the present applicant being a similarly situated employee like that of the applicants in G.C. No.112/87 and other subsequent connected matter and as such the Respondents ought to have extended the benefit of the scheme with consequential other benefits to the present applicant without forcing him to knock the doors of the court for a similar relief and as such the Hon'ble Tribunal. Taking a judicial note of such illegalities may be pleased to draw up contempt proceeding against the Respondents *sup macto* for such violation.

5.6. For that the Respondents have acted illegally in not implementing their own scheme and guidelines holding the file of Casual Employment and as such appropriate direction need be issued to the Respondents to implement all the relevant schemes in case of the present applicant and to reinstate him in his service.

Bhushan

24

5.7. For that the action of the Respondents in denying the similar relief to the present applicant is illegal, arbitrary and violative equality clause as enunciated in the Constitution of India and laws framed thereunder.

5.8. For that in any view of the matter the action/inaction on the part of the Respondents is not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to advance more grounds at the time of hearing of this case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

The applicant further declares 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.

Rakesh

3. RELIEF SOUGHT FOR:

3.1. To direct the Respondents to reinstate the present applicant in his service in the light of the judgment passed in OA 112/87 which was upheld by the Hon'ble Apex Court, with retrospective effect including all consequential service benefits.

3.2. To direct the Respondents to provide similar relief as prayed for in 3.1 treating the applicant to be a similarly situated employee like the applicants in OA No.175/01 in terms of Annexure-10 judgment dated 30.9.02.

3.3. To direct the Respondents to extend the benefit of the scheme as has been granted by the Respondents themselves who are applicants in OA. 40/94 with all consequential service benefits.

3.4. Cost of the application.

3.5. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

4. INTERIM ORDER PRAYED FOR:

During the pendency of the OA the applicant prays for an interim order directing the Respondents to initiate the process of reinstatement along with the applicants in OA No.175/01.

Ansesh

11. PARTICULARS OF THE I.P.C.

1. I.P.C. No. 7 G 605341
2. Date 21/11/2003
3. Payable at Guwahati.

12. LIST OF ENCLATURES

As stated in the Index.

Abhish

VERIFICATION

I, Sri Abhimanyu Ghosh, Son of Ananda Ch. Ghosh aged about 42 years, at resident of Panbazar, Guwahati-1, do hereby solemnly affirm and verify that the statements made in paragraphs 4-3, 4-2, 4-12, 4-14, 4-15 & 5 to 12 are true to my knowledge and those made in paragraphs 4-1, 4-3-4-11, 4-13 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 9th day of Feb of 2003.

Signature.

Abhimanyu Ghosh

ANNEXURE

ANNEXURE

1

Gram: Agricomplex

Phone:

Telox:

Dr. R.N. Prasad,
Zonal Co-ordinator (Zone-III).

भारतीय कृषि अनुसन्धान परिषद उत्तर पूर्वीय प्रवंतीय कृषि अनुसन्धान क्षेत्र, शिल्लंग
ICAR RESEARCH COMPLEX FOR N.E.H. REGION, SHILLONG
"Cedar Lodge", Jowai Road, Shillong - 793 003.

Dated Shillong, the 2nd May, 1983.

To whom it may concern

This is to certify that Shri Abhimanya Ch. Ghosh son of Shri Annada Ch. Ghosh of Mawprem, Shillong has been working under Lab-to-Land Programme of this Institute since 28th April, 1980 as Skilled Casual Employee (Typing). In addition to typing work, he was associated with the field work of the programme too.

He is a diligent, sincere, and silent worker with a pleasant behaviour.

I wish him success in his future endeavours.

R.N. Prasad

(R.N. Prasad)
Zonal Co-ordinator (Zone-III)

Advocate

W.D.
Advocate

Gram: Agricoplex

Phone: 6833

Telex:

भारतीय गृषि अनुसन्धान परिषद उत्तर पूर्वीय प्रवासीय कृषि अनुसन्धान क्षेत्र, शिल्लंग

ICAR RESEARCH COMPLEX FOR N.E.H. REGION, SHILLONG

Mr. D.J. Roy
Director (HQ)-cum-
Field Coordinator,
to Land Programme

TO WHOM IT MAY CONCERN

This is to certify that Shri Abhimanya Chandra Ghosh, son of Shri Annada Charan Ghosh has been working under my administrative control as a Skilled Casual Employee for the last two and a half years. His principal duties here are typing and other clerical works.

He does the works allotted to him to the best satisfaction of his superiors.

He is quite obedient, disciplined and punctual.

He bears a good moral character.

I wish him all success in his life.

Dated, Shillong,
the 26th November, 1981


(D.J. ROY) 26/11/81

Joint Director (H.Q.)
ICAR Research Complex for
N.E.H. Region, Shillong


Advocate

Gram : AGRICOMPLEX

Phone :

Telex :

भारतीय कृषि अनुसन्धान परिषद उत्तर पूर्वीय पर्वतीय कृषि अनुसन्धान केंद्र, शिलंग।
CAR RESEARCH COMPLEX FOR N. E. H. REGION, SHILLONG
Lower Lachumiere Building " Shillong - 793 001.

TO WHOM IT MAY CONCERN

This is to certify that Shri Abhimanya
Ch. Ghosh son of Shri Annada Ch. Ghosh of
Mawprem, Shillong has been working under
Lab-to-Land Programme of this Institute since
28th April, 1980 as Skilled Casual Employee
(Typing). He is a diligent, sincere, and silent
worker with a pleasant behaviour.

I wish him success in his future endeavours.


(A. N. CHOUDHURY)
PROGRAMME OFFICER
LAB TO LAND PROGRAMME
ZONE-III.

V.B.D.
A. N. CHOUDHURY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

C. O. NO. 112 of 1987

Sri Devillal 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.O.
Mr. A.M. Mazumdar.

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

JUDGEMENT & ORDER

PATHAK, J.

The Indian Council of Agricultural 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 Cadar 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.

resed.
(L.)
12/1/88
Advocate.

N.
W.D.

Contd. P/2.

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 aspouse 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.

Contd..3/...

3
W.D.W.
4/1/86

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 wage 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

Contd. P/3..

sied.

7.5.86

83.

CSI

29-23
S7

: A :
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, Bampani have been absenting themselves from duty with

tested.
Advocate.
Advocate.

Affected
Under
Advocate.

Contd...P/

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 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 advertise 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 ICAR 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 .

Attested
by
N.D.
Advocate.

ested.

22/3/86
vocato.

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 .

Signature

Name in
Block letters.....

Mather's
husband's name

Address

*Subodh
Kumar
Advocate*

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 20% 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 in 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

the authority, they become the employee under the respondents. For all practical purpose. It is submitted 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 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.

ested.

vochto.

Attested
Under
Seal

Cont.. p/9

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 renegged 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. Hazwani, 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

ANNA
N.D.
Advocate

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 possees tractor driver licence were engaged as tractor drivers. But they were found guilty of indiscipline. Hence they were dismissed and after the departmental enquiry

W.S. 200

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 proceeding against them as they have been doing by their own showing as noted above.

tested.

11-12
MOOR

W.Dar

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 beggar 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, caste or class or any of them.

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

Contd. P/13.

ested.

Advocate
Vas
Advocate

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

tested.

Advocate.

B. D.
V.P.

Contd. F/14.

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 ~~ras~~ ~~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.

Attested.

S. S. S. S. S.
Advocate.

W. S. S.

voluntarily entered into by the person

obligated to provide labour or service."

16. Casual workers on daily wages basis (engaged in different Nehru Yuval 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 persons who are employed by the Nehru Yuval 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 hope and trust that will be sanctioned by the Central Government in the different Nehru Yuval 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 those persons employed in Nehru Yuval Kendras with effect from the date when they were respectively employed."

(Emphasised by us)

Attested
V. D.
Advocate.

Attested.

11/9/93

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

" This argument 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 argument. 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 provide an escape to the Central Government to avoid the mandate of equality enshrined in Article 14 of the Constitution. This article declares that there shall be equality 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

Contd.. P/17.

Attested.

Advocate.

Advocate.

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.

(Underlined by us).

Similar view has also been reiterated by the Supreme Court in another decision in Gurinder 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 notion 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

Attested.
Advocate.

W.W.

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.

Attn
Advocate

Contd.. P/19.

Attested.

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.O.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. The contractor 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.
Advocate.

Yours
[Signature]

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

user

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.
B. S. S. P.
Advocate.

Attested
W. C. S.
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. 10332 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).

JANUARY, 1990

CH.MT :

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

From 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

tested.

Advocate

Contd. P/2..

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 executed 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, a. d. 1990.

Sd/ Illigible .

Attested.

Advocate.

order

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 SURESH L. SANGLYINE, MEMBER (ADMIN.).

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

For the Respondents Mr. S. Ali, Sr.O.G.S.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, Barapani with their grievances. Sr. O.G.S.O. 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

Registered with A.D.

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

Reg. No. : 3754

Date: 1/8/94.

Copy for information & necessary action to :

(1) Smti 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.

ANED
Advocate
Advocate.

SD/- Eligible
SECRETARY OFFICER (J)

Attested.
Advocate.

ANNEXURE

ANNEXURE - 5

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 Crt, 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 grievance. Hence this representation.

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

Attested.

12/8/94
26/08/94
26/08/94

Ver

Contd. P/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 strike. However, the Hon'ble CAT, Guwahati Bench was pleased enough to allow our case with direction to allow the workers to resume their duties 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 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 entitled 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 Supreme court in number of cases. However, most unfortunately, not to speak of regularisation 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. Further, we have also not been paid arrear wages for the period 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 duties 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 visualised 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 duties within the stipulated time. Such denial is unbecoming of a model employer.

Tested
B. D. S.
Advocate.

W.S.

Contd. P/3

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(OAT) 159 (ii) 1990 (3)SLJ(OAT) 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.

Contd. to p/4

AMITABH
MISHRA
Advocate.

- 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 230/690 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.

stcd.

Om
27.9.7
Seato.

W.D.W.

- BK -

- 48 -

ANNEXURE - 6

To

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

Sab:- 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.C.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 circumstanced 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 circumstanced 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 circumstanced 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

Contd... P/2.

tested.
33
Adv
Srooato:

Adv
User
Advocate.

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 O.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

- 5 -

ANNEXURE - 6 (Contd..)

C.P. 15/93 and O.A. 230/03 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/ Eligible,
(B.K. Sharma)
Advocate

31-12-94

Tested.
B.K. Sharma
Advocate.

68

51

ANNEXURE 7

- 25 -

3

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUJARATI 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.O.S.C.

O R D E R.

BARUAH J(V.C.L.):

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 such scheme. In spite of this, the authorities have not granted temporary status to them. Before this present

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 steps taken by authority within 3 weeks from to-day. If such representation is filed within the said period the respondents shall consider the application also and in that case a final order within 2 weeks.

7.32

contd/-

~~27-55~~

67

~~51~~

-3-

- 53 -

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

Sd/- VICE CHAIRMAN

Sd/- MEMBER (A)

LM

Certified to be true Copy

प्रमाणित प्रतिलिपि

11/11/92

Deputy Registrar (D)
Central Administrative Tribunal
Guwahati Bench

1000
1000
1000

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.

ORDER

BARUAH J. (V.C.)

The applicants are the members of the Indian Council of Agricultural Research Workers' Union, Borapuni. 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

Arrested

Advocate

W.D.

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 (AJMN)

Certified to be true Copy
प्रमाणित प्रतिलिपि

21/6/98
Section Office

आनुसारा अधिकारी (सेक्शन ऑफिसर)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक उपराज्य
Guwahati Bench, Guwahati-6
गুৱাহাটী বৰ্ষাচাৰ, গুৱাহাটী-৬

11/2/98

Advocate.

Notary
User

E. Mail : rcmehr@x.400.
 nicgw.nic.in
 Gram : Agriccomplex
 Phone : 64257 (O)
 64302 (R)
 Fax : 0364-64288
 0364-64501

भारतीय कृषि अनुसंधान परिषद
उत्तर पूर्वी भारतीय कृषि अनुसंधान गृह, उमरगढ़ गोड, बड़ापानी, मेघालय

ICAR RESEARCH COMPLEX FOR NEH REGION

Umroi Road, Barapani-793103, Meghalaya

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.

(N.D. VERMA)

...2

Accepted

Advocate

W.D.V.

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

Advocate.

Verma

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

92

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.
20. Krostina Rupseng.
21. Sabitry Devi.
22. Bila Kharboh.
23. Aatilesh Kharkhonger.
24. Lohit Das.
25. Sarala Kalita.
26. Prem Bahadur Certtry.
27. Barun Das.
28. Gakul 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.

Contd. /2

Advocate
Vidya
Advocate.

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

Contd./3

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

Contd./4

Adv.
W.D. G.
Advocate

25

an interim order. Subsequently by the judgment 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

Contd./5

W.W.
Advocate.

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

Contd./6

R.

P/2.

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.



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

Contd./7

*Attested
by
Advocate.*

3

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 equal 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

Counted 1/8

were recruited from different parts of the North Eastern Region as well as from West Bengal and Bihar.

Altesied.
1375
Associate.

Contd.. P/2.

'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.

Sd/ VICE CHAIRMAN
Sd/ MEMBER (Adm)

TRUE COPY

A. H. Fern
Section of Central Admin. 28/10/2002
Central Admin. 28/10/2002
General Report 28/10/2002
X 28/10/2002

Adm
W.D.

Date: 01.11.2002

To
The Director
ICAR, Borapani
Meghalaya

Sub:- Reinstatement and Regulation of my service
Sir,

With due respect I beg to state that I was working in ICAR Borapani since 1980 as skilled worker (Typing & clerical Job). I also worked in lab to land program of ICAR. I am still waiting for my reinstatement but till date I have not been reengaged. Fresh Casual Workers are in engagement in ICAR but my case has not been considered.

Sir Mrs. Maya Thapa and others were my colleagues. They are now regular TSM but I am yet to get my job. Again Babul Deka and his friends also given a judgment by the Court for resuming duty on 30.9.2002.

Sir, I pray that I may be given reinstatement immediately with the benefit of TSM like Maya Thapa.

Thanking you,

Yours faithfully

Sd/-

Abhimanyu Ghosh
S/o Ananda Ch. Ghosh
Panbazar, Guwahati-1

Altered
new
Advocate

- 67 -

Central Administrative Tribunal

20 JUN 2003 - Guwahati

Guwahati Bench

Mrs. R. S. CHOUDHURY
ADVOCATE
20/6/03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI

BENCH

AT GUWAHATI

IN THE MATTER OF :

ORIGINAL APPLICATION NO. 25/2003

Shri Abhimanyu Ghosh

.... APPLICANT

- VS -

Union of India & Ors.

.... RESPONDENTS

- AND -

IN THE MATTER OF :

Written Statement filed on behalf of
the Respondent Nos. 1 and 2.

I, Dr. Yash Pal Sharma, son of Shri Dhaniram Sharma, aged about 52 years, presently working as Joint Director, I.C.A.R. Research Complex, NEH Region, Barapani currently(holding the charge of Director, ICAR Research Complex) do hereby solemnly affirm and state as follows:-

1. That, I have been impleaded as the Respondent No.2 in the aforesaid Original Application No. 25/2003 and a copy of the said application has been duly served upon me. I have gone through the same and understood the contents thereof.

(2)

2. That all the averments and submissions made in the Original Application are denied by the answering Respondent , save and except those which have been specifically admitted herein and that which appears from the records of the Case.
3. That with regard to the statements made in Paragraph - 1 of the Application, the answering Respondent reserves the right to contend the same in the subsequent Paragraphs herein below.
4. That with regard to the statements made in Paragraph 2 of the Application, the answering Respondent states that the same are incorrect and hence denied. The Applicant has approached the Tribunal after a lapse of more than 10 (Ten) years and therefore, although the Application is liable to be dismissed as time barred, as per the limitation period prescribed under Section 21 of the Central Administrative Tribunal Act, 1985, however, the same has to be examined and considered by the Hon'ble Tribunal.
5. That with regard to the statements made in Paragraph 3 of the Application, the answering Respondent has no comments to offer.
6. That the statements and averments made in Paragraph 4.1 of the Original Application are categorically denied. The claim of the Applicant is unjustified and he has no right to claim the benefits as enunciated therein. The answering Respondent accepts that the Applicant was initi-

(3)

ally employed by the Respondents as skilled Casual Employee and that he used to work as a field worker under the lab to land programme. However, the subsequent statements made in Para 4.1 with regard to the Case No. G.C. 112/87, O.A. 260/1993, O.A. No. 40/1994, O.A. 174/1992 are in no way applicable to the case of the Applicant. It is stated that in fact the Applicant was not connected with the labour agitation which had taken place in the year 1985-86. The Applicant was neither a party to the said agitation nor was his services affected in any sense as a result of the said agitation. As a matter of fact, the Applicant herein was never removed from Casual employment, Since he was working as a Casual worker in the Zonal Co-ordinating Unit of the Complex (during the period of labour agitation) and the Applicant continued to render his services till 21.7.1987 and had also drawn his wages till the said date. Thereafter, the Applicant has unilaterally withdrawn himself from his duties absently without any intimation to the authorities concerned.

The answering Respondents wish to clarify further that the Applicant is in no way connected with G.C. No. 112/1987, O.A. No. 230/1993, O.A. No. 40/1994, O.A. No. 174/1997 and O.A. No. 175/2001 as these Cases were filed by the Petitioners whose services were terminated due to labour agitation whereas the Applicant remained present on duty in the Zonal Co-ordinating Unit as Casual employee during and beyond of the period of labour agitation. The Applicant got his wages regularly for his Casual

(4)

employment till July, 1987 and he did not have any cause of action to approach the Hon'ble Tribunal in the said Case, since he was never retrenched/removed from service. In this regard, it is pertinent to mention that a statement of attendance of the Applicant has been prepared by the answering Respondent as per the records of the Muster Rolls available from January, 1986 to 20th July, 1987.

A copy of the said statement is annexed herewith and marked as ANNEXURE - A.

7. That with regard to the statements made in Paragraph 4.2, the Deponent has no comments to offer.
8. That with regard to the statements made in Paragraph 4.3 of the Original Application, the answering Respondents state that the services of the Applicant might have been utilised in the different departments with regard to the requirements from time to time. Further, the Certificate which has been issued to the Applicant by one Shri A. N. Choudhury (Annexure - 1, Page-24) is evidence of the statements made by the answering Respondents that the Applicant had continued to render his services to the Complex beyond the labour agitation period, since the said certificate is dated 8.1.1986.
9. That while categorically denying the statements made in Paragraphs 4.4 and 4.5 of the Original Application which are contrary to the records of the Case, the answering Respondent reiterates the statements made in Paragraph 6

(5)

hereinabove. As has been stated earlier, the Applicant had remained on duty during the labour agitation period and hence, he ought not to have been a party to the said Proceedings, which were initiated by the other retrenched employees of the ICAR Complex (i.e. G.C. 112/1987, B.A. No. 230/1993 etc.). The Applicant is therefore, not entitled to deserve any benefit from the referred Judgment.

10. That with regard to the statements made in Paragraphs 4.6, 4.7, 4.8, 4.9 and 4.10, the answering Respondent states that the Applicant had continued to render his service till 20.7.1987 and had unilaterally withdrawn from his services with effect from 21.7.1987. In this regard a sanction Order dated 7.8.1987 for releasing the necessary funds to pay the Applicant for the period from 1.7.1987 to 20.7.1987 (the date till which he had rendered services) was also issued by the Zonal Co-ordination, Zone-III, Lab to land programme.

(i) Be it further stated herein that the Applicant is trying to mislead the Hon'ble Tribunal by linking his Case with the Case of Casual labourers whose services were terminated by the Respondents in 1986 due to labour unrest, but the Applicant was not amongst those Casual labourers and he continued to work as Casual Typist in the Zonal Co-ordinating Unit during the labour unrest and had duly drawn his wages as per prevailing rates. He was never removed from Casual employment (Casual Typist) by the Respondents and the Applicant had withdrawn himself. As such, he is not eligible to claim any benefit from the Judgment of those Cases and his claim is unjustified.

(6)

(ii) The benefit of the Schemes of 1988 and 1993 have no bearing on the Applicant because the Applicant had withdrawn himself with effect from 21.7.1987, much before the launching of the above mentioned Schemes.

(iii) Hence, the Applicant's Case cannot be treated at par with the case of the labourers who were removed by the Respondents due to labour unrest. Infact, the Applicant was working in the Zonal Co-ordination Unit as Casual worker (Typist) whereas the labourers whose services were removed were working in the Institute farm and were Casual Agricultural labourers.

A copy of the Sanction Order dated 7.8.1997 is annexed herewith and marked as ANNEXURE - B.

11. That with regard to the statements made in Paragraphs 4.11 and 4.12 of the Application, the answering Respondent states that the said Judgment and Order dated 30.9.2002 passed by this Hon'ble Tribunal in O.A. No. 175/2001 is now sub-judiced before the Hon'ble High Court since the answering Respondent had challenged the validity of the said Order dated 30.9.2002 by way of a Writ Petition which was registered as W.P.(C) No. 2913/2003. Be it further stated herein that the Hon'ble High Court vide Order dated 11.4.2003 had been pleased to Stay the operation of the said Judgment and Order dated 30.9.2002. Notwithstanding the aforesaid submission, it is further reiterated by the answering Respondent that the

(7)

claim of the Applicant in the said Paragraphs is baseless and liable to be rejected, since the Applicant cannot be treated at par with those Applicants whose services were terminated due to labour unrest of 1986.

12. That the statements made in Paragraphs 4.13, 4.14 and 4.15 of the Original Application are mere repetitions and hence, the answering Respondent, while reiterating the statements made in Paragraph 6 hereinabove, refrains from making any further comments therein.

14. The answering Respondent further deems it pertinent to mention at this stage that a Committee was constituted by the Respondents for examining the Case of the Applicant, subsequent to the filing of the instant Original Application. The said Committee met on 26.4.2003 and subsequently the Assistant Administrative Officer (Zonal Co-ordination Unit) wrote to the Assistant Administrative Officer, ICAR Research Complex forwarding the minutes of the said Committee alongwith all the relevant documents vide letter dated 28.4.2003 which are self explanatory.

Copies of the Minutes of the Meeting dated 26.4.2003 and the letter dated 28.4.2003 are annexed herewith and marked as ANNEXURE - C & D respectively.

The Respondents crave leave of this Hon'ble Tribunal to produce copies of

relevant documents at the time of hearing
of the Case.

13. That the answering Respondents humbly states that the Applicant is not eligible for any benefit under the 1988 and 1993 Schemes as he had withdrawn himself from his duties much before the launching of these Schemes. So far as the claim of the Applicant regarding reinstatement is concerned, the answering Respondents state that their hands are tied due to the non-availability of vacancies in the Institute. Hence, the application is liable to be rejected.

14. That none of the grounds avered in the O.A. are valid grounds and no fundamental right of the Applicant has been infringed in any way. Under the facts and circumstances as have been narrated above, it is submitted that the instant Application is devoid of any merit and the same is liable to be dismissed at the threshold.

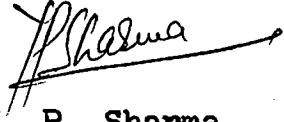
... VERIFICATION ...

VERIFICATION

I, Shri/Dr. YASH PAL SHARMA son of
Shri/Dr. DHANI RAM SHARMA aged about 52 Years
presently working as Joint Director, Indian Council of
Agricultural Research Complex, NEH Region, Umroi Road,
Barapani, do hereby verify that the statements made in
para 1 to 5, 6(pt), 7, 8, 9(pt), 11, 12(pt), 13, 14
are true to my knowledge, belief
and records derived therefrom and I have not suppressed
any material facts.

Place: Guwahati

Date : 20/06/03


Dr. Y. P. Sharma
Joint Director (Hqrs.)

The Statement of attendance of Shri Abhimanyu Ch. Ghosh, ex skilled casual worker (Typist) worked in Z.C. Unit of ICAR(RC) for NEH Region, Shillong as per Muster Rolls (1986 & 1987(upto 20th July, 1987)

Year/ month	January	February	March	April	May	June	July	August	Sept.	October	November	December.
1986	27	20	23	23	24	23	25	07	16	25	20	20
1987	23	23	22	22	17	07	15*	NIL	NIL	NIL	NIL	NIL

(* Upto 20.7.1987)

Note: Shri Abhimanyu Ghosh, ex skilled casual worker (typist) was paid wages at daily rates prevailing at that time i.e. Rs. 13/- per day.

Attested

S. J. SARKAR
Asst. Administrative Officer
Zonal Co-ordinating Unit
TOT Project, Zone-III
ICAR - Umiam-793103
Meghalaya.

Certified to be true copy

R. S. Chowdhury
Advocate

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
OFFICE OF THE ZONAL COORDINATOR (ZONE-III)
LAB TO LAND PROGRAMME
LOWER LACHUMIENG BUILDING SHILLONG-793001

NO. RC/LL/ZC/27/87-88/

Dated Shillong, the 11 Aug 1987.

Sanction is hereby accorded to an expenditure not exceeding to Rs. 169/- (Rupees One hundred sixty-nine) Only for entertaining the Casual labour skilled Shri A.C. Ghosh, Rs. 1/- per day in the Office of Zonal Coordinator, Zone-III, for the period from 1st July, 1987 to 20th July, 1987. The expenditure is to be met from the Zonal Coordinator, 1987-88, Plan.

AS/18/87

(A. K. Saha)
Zonal Coordinator, Zone-III
Lab to Land Programme.

Mem No. RC/LL/ZC/27/87-88/

Dated Shillong, the 11 Aug 1987.

Copy forwarded to :-

1. The Accounts Officer, ICAR Research Complex for NEH. Region, Shillong-3 alongwith Muster Roll & daily Journal of Shri A.C. Ghosh, (Skilled) Casual labour from the period, 1st, July, 1987 to 20th July, 1987. for Rs. 169/- for information and necessary action.
2. The Assistant Administrative Officer, (Estt.) ICAR Research Complex for NEH. Region, Shillong-3 for information. (duplicate copies with duplicate Muster Roll bills.)

AS/18/87
(A. K. Saha)
Zonal Coordinator, Zone-III
Lab to Land Programme.

Referred

7
Asstt. Administrative Officer
Zonal Co-ordinating Unit
TOT Project, Zone-III
ICAR - Umiam-793103
Meghalaya.

Certified. Is true copy.

*R.S. Chowdhury
Advocate*

PROCEEDINGS FOR EXAMINING THE DOCUMENTS
IN THE CASE OF O.A. NO.25/2003.

.....

The committee, constituted with the following members met on 25th April, '03 for examining the documents made available in Z.C. Unit in connection with the case of O.A. No.25/2003, filed by Shri Abhimanya Ch. Ghosh, ex-skilled casual employee of Lab-to-Land Programme.

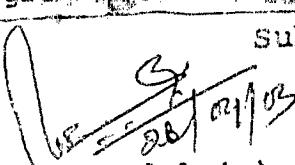
1. Dr. R.K. Bardoloi, Pr.Sci(TOT) - Chairman
2. Dr. B.K. Sharma, Sr. Sci.(AE) - Member
3. Sh. S. Purkyastha, AAO - Member Secretary

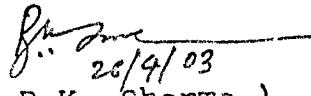
The committee have observed that Shri Abhimanya Ghosh, casual employee of Z.C. had joined Lab-to-Land Programme w.e.f. 28th April, 1981 till 1987, as per certificate, Muster Roll Bill/labour journal and sanction orders, available in the enclosed copies. In support of his attendance in Lab-to-Land Programme are made available in office w.e.f. 1st Jan., '81 but as per certificate issued by the ex-Z.C. and P.O. it has been seen that he had worked w.e.f. 28th April, 1980.

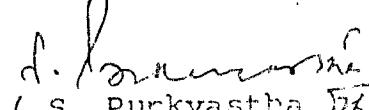
The original documents have been checked and found in order. Photocopy of each documents, alongwith few No. of office order, relevant to the case may be sent to the A.O., ICAR Res. Complex Umiam for information and necessary action.

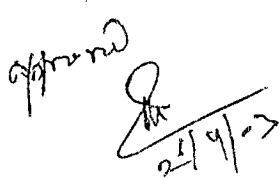
However, Shri Ghosh was not present in Lab-to-Land Programme after 28th April, 1987..

Submitted for approval.


(R.K. Bardoloi)
Pr. Scientist(TOT)
Chairman


B.K. Sharma
Sr. Sci. (AE)
Member


(S. Purkyastha)
Asstt. Admn. Officer
Member - Secretary


ZONAL CO ORGANIZER
Z.C.U.T.O.T. Project Zone-III
I.C.A.R. Research Complex for NEH
Rozin
Umroi Rura, Bokaijani-783105, Meghalaya

Certified to be true copy

R. J. Chowdhury
Advocate

ZAM MAIL, A COMBINED FARM IN THE REGION OF KRAKHIEH
ON TEECHINGHON (C) VILLAGE, TONKHING (Z.C. UNIT)
UMROH ROAD: UMIAAM-793103: MEGHALAYA

NO.ZC/TOT/72/L.D./03-04/145

Dated Umiam, the 28th April, 2003

To

The Administrative Officer,
ICAR Res. Complex for NEH Region,
Umiam.

Sub: Furnishing information regarding engagement/dis-engagement
of Shri Abhimanya Ch. Ghosh, ex-skilled casual employee of Lab-to-land
Programme of Z.C. Unit, Zone-III.

Ref: Your letter no. B.C-2/38/68 - 2003 dt. 25-3-03

Madam,

With reference to the above, I am directed to furnish below, the required
information/replies as asked for on the points, as desired.

- As per records available at this unit, it has been seen that Shri Abhimanya Ch. Ghosh, ex-casual employee of this unit had worked upto July, 1987.
- Attendance and mode of payment during his service as available at this unit w.e.f. Jan., 1981 to July, 1987 are furnished as per Annexure-I (Xerox copies of attendance for 2 yrs. from Jan., 1982 to Dec., 1983) and Annexure-II (Xerox copies of the mode of payment from Jan., 1981 to July, 1987).

3. Yes, Shri Abhimanya Ch. Ghosh had been working during his agitation and continued
upto July, 1987.

As regards Attendance/Mode of Payment with rates are shown in Annexure-I & II.

To P-194/C (i.e. Jan. '82 to July '87)

Regarding his service upto July, 1987, he had worked for 2 yrs. (i.e. 1981-82 & 1982-83) & he had already attained 2 yrs. of age at that time. Above Shri Ghosh had worked in Lab-to-Land Programme of Z.C. Unit upto July '87 and after that he was not present in Z.C. Unit.

A copy of P-194/C (i.e. Jan. '82 to July '87) is enclosed herewith.

Enclo : Ann.I (List of documents)

Ann.II (Attendance register

from Jan '82 to July '87)

Ann.III (Copy of appl. for the

post of Jr. Clerk indicating
the details of his bio-data

with recommendation of ZC)

Ann.V (List of other documents,
relating to casual employees
during that period).

Yours faithfully,

S. Purkyastha
(S. Purkyastha)
Asstt. Admin. Officer (ZC)

AAOLC
for mba. pl.
28/4/03

Certified to be true copy.

*R.S. Chowdhury
Advocate*

*A20
28/4/03*