

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.852/98
&
Miscellaneous Appln. No.745/98

Jabalpur : this the 5th of August, 2003.

4 1. Arvind Kumar Yadav
S/o Sh. Ram Prasad,
aged about 21 years.

2. Daya Ram S/o Sh. Rameshwar Yadav,
aged about 26 years,

All the working as Casual Labourers
at Military Dairy Farm, Jabalpur (MP) Applicants.

(By Advocate : Shri Prasant Singh)

versus

1. Union of India thr. Secretary,
Ministry of Defence,
New Delhi.

2. Deputy Director General,
Military Farm Headquarter,
Block No.3, R.K. Puram,
New Delhi.

3. The Director,
Military Farm, Army Headquarter,
Lucknow (UP).

4. The Officer,
Military Farm, Jabalpur (MP)

5. Smt. Shakur Bai W/o Ramesh
aged 27 years, working as Casual
Labour (Temporary Status)
at Military Dairy Farm,
Jabalpur (MP)

..... Respondents.

(By Advocate : Shri S.A. Dharmadhikari)

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CORAM :

HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER

HON'BLE MR. ANAND KUMAR BHATT, ADMINISTRATIVE MEMBER

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O R D E R

By J.K.Kaushik, Judicial Member :

The applicants, who have filed this O.A. are similarly situated and the relief claimed is also the same, therefore, the Miscellaneous Application registered as 745/98 for joining together and to file one single Original Application, is allowed.

2. The applicants of this O.A. seeks a direction to the respondents for regularising their services from the date of their initial appointment in compliance with the Government Circulars dated 31.8.89, 10.9.93 and 27.6.91 at Annexures A-1 to A-3.

3. The brief facts of the case are like this. Applicants were employed in establishment of the respondents in the year 1993 and 1995 respectively. They served them in the capacity of muster roll employees fairly for a long time. It has also been averred that respondent No.5 has been given temporary status by-passing the claim of applicants, especially of applicant No.1. The respondents have been satisfied with their working and they have completed 120 days continuous service during six months and are entitled to be brought on regular strength. As per another Guideline issued on 10.9.93, Casual Labour becomes entitled for grant of temporary status on completion of 240 days in a year. Instructions have further been issued that the person who have completed one year of service ~~continuously~~ [✓] as also 240 days, would be entitled for regularisation in service. No proper procedure for marking attendance has been followed.

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It is averred that respondents left a wide scope for exercising their whims and fancies solely for the purpose of accommodating their blue eyed boys. However, they have been illegally denied their claim and even their juniors have been extended the benefits of various schemes. A reference has been made to the judgement of Hon'ble the Supreme Court in State of Punjab and Haryana Versus Pyara Singh (AIR 1992 SC 2130) and contended that a person who has completed 2 to 3 years service, would be entitled for regularisation. They have been duly registered with the Employment Exchange.

4. Respondents have filed their reply to the O.A. and have in specific term averred that since the applicants have not completed 240 days working during each of the two years, they are not entitled for being appointed on regular basis as they had been engaged by the department on 'as and when required basis'. Hence, applicants have no claim.

5. We have heard the learned counsel for the parties and have carefully perused the records of the case.

6. Our attention was drawn to Annexure A/4 wherein details of number of working in respect of applicants are given. Applicant No.1 (Arvind Kumar Yadav) has rendered 141 days in 1995, 208 days in 1996 and 210 days service in the year 1997 however, Applicant No. 2 (Daya Ram) has rendered 257 days in 1995, 131 days in 1996 and 196 days days service in the year 1997. A great stress has been led on implementation of the Scheme issued on 10.9.1993 which is in fact, in supersession of the earlier schemes and is in force. It has been submitted that applicants' case is fully covered by



the Scheme at Annexure A/2, but, respondent-department has denied their dues. He has also submitted that had the respondents sincerely record their attendance, they would have completed the requisite number of days required for grant of benefits under the said scheme. Not only this, respondents are deliberately not allowing them to work continuously and artificial breaks are being given.


7. On the other hand, respondents have contended that as per para 5 of the scheme, one is required to complete 240 days in case of six days' week or 206 days in case there is a five day week system and the ^{individual} should be in employment as on 1.9.1993 that is, date of the scheme. But, none of the applicants completes this condition. Hence, they have not been granted the temporary status and also cannot be considered for regular absorption in ~~respondent~~ establishment. It has also been submitted that this scheme is only a one-time scheme and in this view of the matter, applicants cannot derive any benefit of the scheme, therefore, the O.A. has no force and the same deserves to be dismissed.


8. We have considered the rival contentions raised on behalf of both sides. As far as the scheme is concerned which is in force, is dated 10.9.1993. It specifies that one must complete the requisite number of days as on the date the scheme came in force and one should also be in the employment on that date and the scheme was one time programme and is not a continuous one. This interpretation of the law has been laid down by Hon'ble the Supreme Court while examining the said scheme in Leut. Governor (Adm) and Ors. Vs. Sadanandan

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reported in AIR 2002 SC 2001. Applying the said proposition of the law to the facts and circumstances of the case, we are of the firm view that no case has been made-out on behalf of the applicants. None of the applicant fulfilled the eligibility conditions essential for grant of benefits as per the Casual Labour Temporary Status and Regularisation Scheme of 1993 since neither they were in employment on 1.9.1993 nor they completed the requisite number of days. Therefore, they are not entitled to any benefit and no interference is required from this Tribunal in the action of the respondents.

9. The result is rather very unfortunate but, we have no option except to dismiss this Original Application. The same stands dismissed with no order as to costs.


(Anand Kumar Bhatt)
Administrative Member


(J.K. Kaushik)
Judicial Member

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पुस्तक सं ओ/न्या. जयपुर, दि.
प्रतिलिपि अर्जित:-


(1) सचिव, उच्च न्यायालय वार एग्जिक्यूटिव, जयपुर

(2) सचिव, न्यायाधीश, उच्च न्यायालय, जयपुर के कार्यालय

(3) प्रतिलिपि/प्रतिलिपि/कु. के कार्यालय

(4) सचिव, न्यायाधीश, जयपुर न्यायाधीश

सूचना कि आवश्यक कार्यवाही हेतु


उप सचिव 7/8/03

p. Singh Accu

SA. Sharmadhar Accu

Issued
on 7.8.03
BS