

**Central Administrative Tribunal
Principal Bench**

OA No.1385/2016

Order Reserved on: 10.07.2018
Order Pronounced on: 13.07.2018

Hon'ble Ms. Nita Chowdhury, Member (A)

1. Faiyaz aged about 43 years,
S/o Sri Sherdin,
R/o Village & Post-Daurala,
Ward No.5, District-Meerut (UP)
2. Om Prakash, aged about 47 years,
S/o Sri Laxman Singh,
R/o Village – Daurala Bangla Colony
Post – Daurala, District – Meerut (UP)
3. Ganga Charan, aged about 47 years,
S/o Sri Jagram,
R/o Village – Machhari, Post-Daurala,
District-Meerut (UP)
4. Sohal Pal, aged 45 years,
S/o Sri Nain Singh,
R/o Village – Machhari, Post-Daurala,
District-Meerut (UP)
5. Tiraj aged about 38 years,
S/o Sri Karan Singh,
R/o Village – Machhari, Post-Daurala,
District-Meerut (UP)
6. Harendra aged about 41 years,
S/o Sri Ganga Bal,
R/o Village – Machhari, Post-Daurala,
District-Meerut (UP) - Applicants

(By Advocates: Mr.TN Singh with Mr. Vikas K. Singh)

Versus

1. Indian Council of Agricultural Resewarch,
Krishi Bhawan, Dr. Rajendra Prasad Road,
New Delhi-110001 through its Secretary
2. ICAR-Central Potato Research Institute,
(Indian Council of Agricultural Research)
Shimla-170001 (HP) through its Director
3. ICAR- Central Potato Research Institute,
(Indian Council of Agricultural Research)
Modipuram-250110, Meerut (UP)
Through its Joint Director/Scientist-Incharge
---Respondents

(By Advocate: Mr. BS Mor)

ORDER

The applicants have filed the present Original Application (OA), claiming the following reliefs:-

- “i. To allow this application of the applicants by way of quashing and setting aside Office Orders dated 02.03.2016 passed by the respondent no.2, whereby representations of these applicants are disposed of without conferring them benefit as rendered in paras 22 and 23 by this Hon’ble Tribunal on 20.5.2014 in OA No. 3003/2012 (Maman Singh & Ors. Vs. Union of India & Ors.) in favour of similarly situated casual labourers;
- ii. To issue a direction to the respondents to grant temporary status to the applicants 1,2 and 4 and 5 in the light of Casual Labourers (Grant of Temporary Status) Scheme, 1993 in terms of para 22 of said decision rendered by this Hon’ble Tribunal in OA No. 3003/2012 (Maman Singh & Ors. Vs. Union of India & Ors.) in favour of similarly situated casual labourers;
- iii. To issue a direction to the respondents to regularize the services of these applicants from their respective dates in terms of OM No. 490142/2/86 Estt.(C) dated 07.06.1988 as well as OM No. 49019/1/2006-Estt.(C) dated 11.12.2006 of DOP&T and also in terms of decisions rendered by the Hon’ble Apex Court in cases of State of Karnataka Vs. Uma Devi and State of Karnataka Vs. ML Keshari & Ors. as well as said order 20.05.2014 passed by this Hon’ble Tribunal in OA No. 3003/2012 at an early date;
- iv. To issue any other order or orders, direction which this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case;
- v. To award the costs also to these applicants.”

2. The main grievance of the applicants in the present OA is that despite the fact that their claim is squarely covered by decision of the Tribunal dated 21.04.2015 in OA No. 3003/2012 (**Maman Singh & Ors. Vs. Union of India & Ors.**), the respondent no.2, vide its common order dated 02.03.2016 impugned in the

present OA, has disposed of their representations dated 21.04.2015 and 18.12.2015 without assigning any reason as to why they are not entitled to get similar benefits as have been extended to similarly situated applicants of OA No. 3003/2012.

3. At the outset, learned counsel for the respondents pointed out that this matter has already been adjudicated against the applicants by the larger Bench of this Tribunal vide order dated 12.10.2006 in OA Nos. 2713/2004, 3063/2004, 3059/2004 and 2854/2005 and by the Hon'ble High Court of Delhi in WP(C) Nos. 13021-22 of 2006 and 13221-22/2006 vide order dated 29.09.2014 and thus, the claim of the applicants is barred by the principle of *res judicata* and also amounts to gross abuse of process of this Tribunal as the present OA has been filed by concealing the aforesaid relevant and material facts. The applicants are thus estopped to file the present OA from their own act and conduct.

4. It is further stated that the applicants have misled this Tribunal because in their OA No. 4138/2015, they claimed parity of order dated 20.05.2014 passed in OA No. 3003/2012, whereas in their two representations both dated 21.04.2015, claiming relief on the basis of scheme dated 01.09.1993 has been thoroughly considered, interpreted and adjudicated as one time measure and not an ongoing one by the Hon'ble Supreme Court as reported in **Union of India Vs. Mohan Pal**, (2002)4 SCC 543 whereby none of the applicants can be granted any relief as claimed.

5. Learned counsel for the respondents also drew attention to the fact that the aforesaid order of this Tribunal dated 20.05.2014 has already been challenged in WP (C) No. 9202/2014 and

operation thereof has already been stayed by the Hon'ble High Court vide cumulative orders dated 22.12.2014 and 24.10.2016 passed therein. The said orders are being reproduced as hereunder:-

"22.12.2014

Caveat No.1132/2014

Issue notice to caveator returnable for 03.03.2015.

W.P.(C) 9202/2014

Having considered the impugned order of the CAT, this court is of the opinion that further operation of the said order is to be ceased and is accordingly directed to be suspended till the next date of hearing.

Order dasti.

24.10.2016

Learned counsel for the petitioners would obtain instructions whether the services of the respondents are required or whether the petitioner wants to discontinue their services. In case the petitioners want to discontinue the services of the respondents, it will be stated and confirmed whether the petitioners would be recruiting new employees in place of the respondents.

Relist on 16th January 2017

Interim order to continue.

Dasti."

6, In view of the above factual position, it would be, in the fitness of things, if this matter is taken up finally after the decision of the Hon'ble High Court in the aforesaid Writ Petition. As the order of the Tribunal have already been stayed, the matter is adjourned *sine die* with liberty to the parties to revive the OA after the order is passed in the aforesaid Writ Petition.

(NITA CHOWDHURY)
MEMBER (A)

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