

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/1094/2014

Date of Order:09.04.2019

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Dasarathi Khillar, aged about 37 years, S/o. Banchhanidhi Khillar, At-Gan Bankilo, PO-Balabhadrapur, District-Nayagarh, PIN-751 026.

...Applicant

By the Advocate(s)-M/s.A.Mishra
M.S.Swarup
Rajlaxmi

-VERSUS-

Union of India represented through:

1. The Secretary, Ministry of Agriculture Department, New Delhi-110 001.
2. Secretary, Indian Council of Agricultural Research, Krishi Bhawan, Dr.Rajendra Prasad Road, New Delhi-110 014.
3. Director, Central Institute of Fresh Water Aquaculture, (CIIFA), Koushalyaganga, Bhubaneswar, Dist-Khurda.
4. Administrative Officer, Central Institute of Fresh Water Aquaculture,(CIFA), Koushalyaganga, Bhubaneswar, Dist-Khurda.

...Respondents

By the Advocate(s)-Mr.S.B.Jena

ORDER (Oral)

PER MR.GOKUL CHANDRA PATI, MEMBER(A):

In this Original Application under Section 19 of the A.T.Act, 1985, the applicant has prayed for the following reliefs:

"...to direct the respondents to regularize the services of the applicant.

...to direct the Respondents to disburse the equal pay for equal work at par with regular employees.

...to quash letter dated 05.12.2013 and letter dated 26.12.2013 passed by the Administrative Officer, CIFA under Annexure-A/7 and Annexure-A/8 respectively.

2. It is stated in the O.A. that the land of the applicant's family was acquired for the purpose of setting up the Central Institute of Fresh Water Aquaculture (CIFA) at Bhubaneswar and as per the policy of the Government, the applicant is entitled for a job in the Institute. Accordingly, he was engaged on casual basis in CIFA since August, 1998. As per the list of Nominal Muster Rolls (in short NMR) published on 12.09.2000(A/1), the name of the applicant is found place at SI.No.3. His grievance is that in spite of Memorandum of Understanding between the Management and the Labour Union of CIFA, his service is not being regularized by the respondents. It is further submitted in the O.A. that vide letter dated 22.02.2001 (A/3) and dated 06.06.2002, the Government of India has directed for grant of temporary status and regularization of services of the casual labourers. In view of the instructions vide letter dated 05.12.2013 the ICAR has asked the Director, CIFA to engage the casual labourers with outsourcing. While the matter stood thus, the respondents decided to engage all the casual NMR employees by outsourcing the services through contractor as per letter dated 26.12.2013 of the Administrative Officer, CIFA and the work order has been extended in favour of some contractors. It is averred in the O.A. that the letter dated 05.12.2013 as well as the letter dated 26.12.2013 are illegal in view of the decision of the Government of India for grant of temporary status and consequent regularization of the services of casual labourers.

3. Since the O.A. has not been admitted, no counter has been filed. When the matter was considered on 9.4.2019, learned counsel for the applicant submitted that a batch of OAs filed by the employees of CIFA who are similarly situated as the applicant in this O.A. has been disposed of by this Tribunal vide common order dated 09.01.2018 in the O.A.Nos.260/00 407,

409, 410, 411, 431, 432, 433, 434, 440 of 2014. He, therefore, prayed for similar order to be passed in this O.A. at the admission stage.

4. Learned counsel for the respondents was heard. He prayed for time to obtain necessary instructions from the respondents.

5. Keeping in view the facts and circumstances of the case, we are not inclined to keep this matter pending any longer. We have gone through the common order dated 09.01.2018 passed by this Tribunal in O.A. Nos. 260/00 407, 409, 410, 411, 431, 432, 433, 434, 440 of 2014. It is found that the letters dated 05.12.2013 (A/7) and 26.12.2013 (A/8) which are impugned in this O.A. were also impugned and called in question in the batch of OAs. Referred to above. The common order dated 09.01.2018 passed by this Tribunal disposing of those O.As reads as follows:

"6. Applicant seeks impetus from the letter dated 22.02.2001 (Annexure-A/2) and letter dated 06.06.2002(Annexure-A/3). There is no dispute about the fact that there was direction for regularization of casual labourers and grant of temporary status in view of the judicial pronouncement. The applicant could not reap any benefit in 2001 and 2002 and is harping the present remedy only in this O.A. filed in 2014.Had such a regularization matter come up before passing of the Constitutional Bench judgment in the case of State of Karnataka vs. Uma Devi reported in (2006) 4 SCC 1, the matter would have been different. After this Constitutional Bench judgment, regularization has to be made in terms of the specific observation of the Hon'ble Apex Court. Ld. Counsel for the applicant argued that there is no dispute about the fact of continuance of the applicant since last two decades, but the Central Institute of Fresh Water Aquaculture is delaying the matter on one pretext or the other. However, as a onetime settlement of labour issues, the Director, Central Institute of Fresh Water Aquaculture, Koushalyaganga, Bhubaneswar, Odisha, has written a letter to Dr.B.Meenakumari, Deputy Director General (Fy.), Indian Council of Agricultural Research on 30.03.2013 (Annexure-A/5), the relevant portion of the letter is extracted below for ready reference.

"It is, therefore, requested that the respected Deputy Director General (Fy) may kindly be graciously pleased to realize the difficulties of the Institute, especially keeping in view the problems being faced

due to labour unrest, appreciate the measure taken by the ASI authorities and grant the following:

Regularizations of services of all the above labour.

Or

Grant of Temporary Status to all the above cited group of 29 nos. of casual labourers presently getting wages @ 1/30th of minimum pay of a regular employee (Skilled Support Staff) to the rest i.e., the group of labour (who were directly paid wages by the Institute till 30.06.2001, but subsequently treated as contractual labour w.e.f. 29.9.2001)".

7. In view of such development, all the OAs are disposed of with direction to the Respondents to take a decision regarding regularization or giving temporary status to the applicants if they are otherwise eligible in terms of their official guidelines, norms and precedence. No costs".

6. Having regard to the facts and circumstances of the case as submitted by the learned counsels vis-a-vis the order dated 09.01.2018 passed in the above mentioned batch of OAs and taking into account the submission of the applicant's counsel that applicant is similarly placed as the applicants in the aforesaid OAs disposed of vide order dated 9.1.2018, we direct the respondents to consider the case of the applicant in the background of facts and circumstances of the case and the order dated 9.1.2018. If the applicant is found to be similarly situated as the applicants in O.A.Nos. 407, 409, 410, 411, 431, 432, 433, 434, 440 of 2014 which are disposed of by order dated 9.1.2018, then the respondents shall consider granting the applicant the same relief which was granted by this Tribunal to the applicants in the above referred O.As vide order dated 9.1.2018.

7. With the above observation and direction, this O.A. is disposed of at the stage of admission itself without expressing any opinion on merit. No costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)
BKS

(GOKUL CHANDRA PATI)
MEMBER(A)

