

CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA

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No. O.A. 350/00405/2014

Date of order: 19.9.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member

1. Shri Mangal Ruidas,  
Son of late Balaram Ruidas,  
Aged about 42 years,  
Unemployed Youth,  
Residing at Vill. Chaktatul,  
P.O. Ranadiha,  
P.S. Bud Bud,  
Dist. Burdwan,  
Pin : 713 420.

2. Shri Subhash Ruidas,  
Son of late Netai Ruidas,  
Aged about 46 years,  
Unemployed youth,  
Residing at Vill. Naskarbandh,  
P.O. Bharatpur, P.S. Bud Bud,  
Dist. Burdwan,  
Pin : 713 420.

... Applicant

- VERSUS -

1. Union of India,  
Through the Secretary to the Govt. of India,  
Ministry of Defence,  
South Block,  
New Delhi - 110 001.

2. The Director of Military Farms,  
Headquarters,  
Eastern Command,  
Fort William,  
Kolkata - 700 021.

3. The Officer-in-Charge,  
Military Farms,  
Panagarh,  
P.O. Panagarh,  
Dist. Burdwan,

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Pin : 713420.

.... Respondents

For the Applicants : Mr. S.K. Dutta, Counsel

For the Respondents : Mr. A.K. Chattopadhyay, Counsel

**ORDER**

**Per Dr. Nandita Chatterjee, Administrative Member:**

The applicants have approached the Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

"(a) An order granting leave to the applicants under Rule 4(5)(a) of the Central Administrative Tribunals (Procedure) Rules, 1987 to move this application jointly.

(b) An order holding that the reasons as stated in reply to Demand Justice Notice for rejection of the claim of the applicants are totally arbitrary and unsustainable.

(c) An order directing the respondents to consider and grant appointment to the applicants against any suitable Group-D post including Farm Hand at any Military Farm wherever there are vacancies in Group-D category or in MTS."

2. Heard both Ld. Counsel, examined pleadings, documents on record.

The respondents have furnished orders of the Coordinate Benches in O.A. No. 331/01555/2017 as well as in O.A. 200/01022/2016, 771/2017, 787/2017 & 1008/2017 in support of their arguments.

3. The applicants have prayed for liberty for joint prosecution of this O.A.

On being satisfied that the applicants share a common interest and are pursuing a common cause of action, joint prosecution is allowed under Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules, 1987.

4. The submissions of the applicant, as articulated through their Ld. Counsel, is that the applicants are erstwhile Casual Labourers of Military

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Farm, Panagarh. The applicants had been enlisted with other Casual Labourers of the said farm who have been appointed as regular Gr. 'D' staff irrespective of their length of service. The prayer of the applicants for regularization, however, was rejected on untenable grounds and the applicants, being aggrieved, with the non-consideration of their prayer; have approached the Tribunal praying for the abovementioned relief.

5.1. The respondents have controverted the claim of the applicants in their reply dated 1<sup>st</sup> September, 2014 and have further furnished a supplementary reply in response to Tribunal's directions dated 26.6.2019. The respondents have argued as follows:

- (a) That, illustratively, applicant No. 1, who was engaged as a daily labour, served for more than three years in the farm and, thereafter, for a limited period between 1986 to 1991 ranging from 54 days to 162 days in each year. The applicant was not sponsored by Employment Exchange, which is a prior requisite for a casual worker.
- (b) That, no Daily Labour have been appointed as Gr. 'D' employees in the said military farm.
- (c) The Labourers reportedly regularized by the respondent authorities were all senior to the applicants in terms of their engagement.
- (d) That, a policy decision had been taken for closure of all the 39 Military Farms subsequent to which the existing permanent employees, who were rendered surplus, would be adjusted as per the respondents' instructions dated 28.7.2017 (Annexure X-3 to the supplementary reply) through AG's Br, IHQ of MoD (Army).
- (e) That, in the Military Farm at Panagarh, a seniority list of Labourers was maintained (Annexure X-4 to the supplementary

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reply). In accordance with the dates of engagement in the said farm, a total of 49 such Casual Labourers were enlisted and that 29 of such labourers were ultimately adjusted as per available vacancy upto the year 1995.

During hearing, the respondents would also furnish an offer letter of appointment dated July, 1995 for the post of Gr. 'D' staff to one Bhola Nath Acharya to establish that such offers were made upto 1995 only.

5.2. The respondents would further refer to the decision of coordinate Benches in O.A. No. 331/01555/2017 in which the applicants who were engaged on contractual/daily basis had approached the Tribunal challenging their dismissal. The Tribunal dismissed the prayer vide its order dated 21.2.2019, holding as follows:-

"13. The applicant was only appointed on daily wages basis, so the question of appointing/reinstating giving him other benefits does not arise. Daily wagers cannot claim regular pay scale as a matter of right. Since the respondents were not able to take up regular appointments, to fill up the posts, the applicant was given extension from time to time with some break in service and this continued for some time. At the time of initial appointment, the applicant was well aware of the temporary nature of his tenure as well as the pay, scale payable to him. He cannot now turn around and seek enforcement of a right which he was never entitled to."

This was followed by an order date 2.7.2019 in O.A. Nos. 200/01022/2016, 771/2017, 787/2017 & 1008/2017, whereby another Bench of the Tribunal, while hearing the applications of daily Labourers, dismissed the prayer of the applicants for regularization by the respondent authorities.

The respondents would also furnish before us the orders of the Hon'ble High Court of Guwahati in WP (C) No. 5430/2017 in which the Hon'ble Court had held as follows:-

"The writ petitioners herein, claim to be casual employees working under the respondent authorities and apprehending termination of their services due to the decision of the authority to close down the Military Farm at Guwahati, the present writ petition has been filed.

On instruction obtained from his clients, Mr. S.C. Deyal, learned Asstt. Solicitor General of India, submits that none of the petitioners are under employment of the Army authorities but they were working as casual worker under the Contractor engaged by the respondents No. 3 for providing certain

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services. Under such circumstances, Mr. Keyal submits that the petitioners do not have any right to approach this Court by filing the present writ petition.

Mr. Dutta has not denied that his clients are not employed under the respondent authorities but are working as casual labourers under the contractor. If that be so, the petitioners cannot enforce any right in this writ petition.

As such, the prayer made by the petitioners cannot be entertained and the writ petition is accordingly dismissed.

No order as to costs."

6. The only issue before us is to decide whether the applicants are entitled to regularization.

7 (a). The respondents have disputed the claim of the applicants that they were Casual Labourers and have held that they were engaged on daily wage basis.

(b) The respondents have brought before us orders dated 26<sup>th</sup> June, 2013 & 28<sup>th</sup> July, 2017 (Annexure X2 to supplementary reply) that the Military Farms have been closed down and the permanent staff would be adjusted elsewhere.

Hence, the scope of regularization of the applicants engaged on daily basis in the said military farm, does not arise.

(c) At certain point of time, 29 of such Labourers were indeed regularized by the respondents authorities, who had maintained a seniority list of 49 labourers and the applicants were placed at Srl. Nos. 44 and 45 of the said seniority list. Although 29 of their seniors were regularized in 1995, the applicants have never approached the respondent authorities or any judicial forum to agitate their case for regularization at the material point of time.

(d) It is also noted that at least in the case of applicant No. 1, he was engaged for a limited number of days in each year from 1986-1991, without any continuity and for certain specific number of days as disclosed by the respondents in Annexure A to their reply.

(e) We find no reasons to dissent with the orders of the coordinate benches in O.A.s No. 331/01555/2017 as well as in O.A.

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200/01022/2016 , 771/2017, 787/2017 & 1008/2017 wherein the prayer of applicants for regularization was dismissed.

8. Accordingly, given the settled principle of law that the applicants, being daily Labourers, were not holding substantive posts, and, as a policy decision was taken by the Government of India vide its letter dated 28.7.2017, AG's Br, IHQ of MoD (Army), to close down all the 39 military farms, the scope of providing any work of perennial nature to the applicants therein does not arise.

Further, in the light of decisions arrived at O.A.s No. 331/01555/2017, as well as O.A. 200/01022/2016 , 771/2017, 787/2017 & 1008/2017, the claim of the applicants fails on merit.

9. The Ld. Counsel for the applicant would, however, submit that given the present developments of closure of military farms, the applicants would not like to press, as such, for regularization, but would only seek liberty to represent to the respondent authorities to engage them as Labour in any suitable place of work. We hereby grant such liberty to the applicants to prefer a comprehensive representation to the respondent authorities within 3 weeks of receipt of a copy of this order, seeking alternative engagement as Labour and, in the event such representations are preferred, the respondent authorities shall consider such representations in accordance with law and dispose of them within 8 weeks of receipt of the same.

10. With these directions, the O.A. is disposed of. There will be no orders on costs.

**(Dr. Nandita Chatterjee)**  
**Administrative Member**

**(Bidisha Banerjee)**  
**Judicial Member**

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