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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1630 OF 2003

New Delhi, this the 1st day of June, 2004

HON'BLE SHRI SARWESHWAR JHA, ADMINISTRATIVE MEMBER

Shri Faiyaz,
S/o Shri Sherdin
R/o Vill. Daurala
Distt. Meerut

.....Applicant

(By Advocate :Shri Surinder Singh)

Versus

Union of India through,

1. The Secretary,
Agricultural, Krishi Bhawan,
New Delhi.
2. Indian Council of Agricultural Research,
Library Avenue, New Delhi.
3. Central Potato Research, Institute Campus,
Modipuram, Meerut through its
Joint Director.

.....Respondents

(By Advocate :Shri B.S. Mor)

ORDER (ORAL)

This Original Application has been filed with prayer that the respondents be directed to accord temporary status to the applicant with effect from the date he has completed 240 days as a casual labourer with all consequential benefits and to regularise his services keeping in view the fact that he has been in service for the last over 14 years.

2. The applicant was initially appointed by the respondents as a casual labourer in the month of September, 1989. He has continued in the service of the respondents. It has been further submitted that the requisite period of service, i.e., 240 days, has been rendered by the applicant in the year 1993 itself, but temporary status has not been conferred on

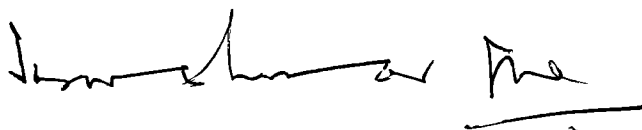


him in accordance with the Scheme of the Department of Personnel and Training as issued in the year 1993. Reference has also been made to the decision of the Apex Court in the case of Gujarat Agricultural University Vs. Rathod Labhu Bechar Special Civil Application No.2794/1994 decided on 21.4.1997, in which, among other things, it has been held that "If the work is of such nature, which has to be taken continuously and in any case when this pattern becomes apparent, when they continue to work for year after year only option to the employer is to regularize them...".

3. Reliance has also been placed on another case, namely, Saniav Sharma Vs. Union of India, 2002 (1) ATJ 459, to buttress the same arguments as contended by the applicant earlier.

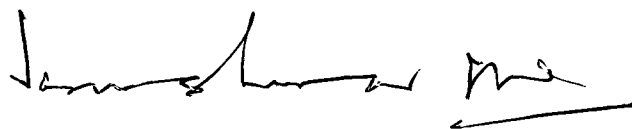
4. On perusal of what has been submitted by the applicant in paragraph 4 of the Original Application, it is observed that the applicant has relied upon the decision of the Allahabad Bench of the Central Administrative Tribunal in OA NO.589 of 202 decided on 31.1.2003 in the case of Prakash and Ors. Vs. Union of India and Ors. also, the relevant portion of which has been extracted by the applicant in MA 2548/2003 as under:-

"It will only be in the interest of justice to direct the respondents not to displace or replace the applicants by new set of daily wage casual labourers."



5. Learned counsel for the respondents has, however, submitted that in the position as held by the respondents as explained in the counter reply filed by them significant point in regard to the applicant is that he has not exhausted the departmental remedies, which are available to him, by filing a representation to the respondents in the matter and has straightway approached this Tribunal by filing this Original Applicant, which is not normally permissible. According to him, appropriate case would have been that the applicant had submitted a representation to the concerned respondent seeking appropriate relief.

6. In the light of what has been submitted by the learned counsel for the official respondents and also keeping in view the fact that the respondents should have been afforded an opportunity to apply their mind to the case of the applicant and to do the needful as provided for under the Scheme regarding grant of temporary status and also regularisation of services of casual labourers, and also having regard to the facts and circumstances of the case and keeping in view the decision of the Hon'ble Apex Court as also those of the Allahabad Bench of this Tribunal as relied upon by the applicant, I am of the considered opinion that the appropriate course, at this stage, would be to dispose of this Original Application with a direction to the respondents to treat this Original

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(4)

Application as a representation as filed by the applicant and to consider and dispose it of properly with regard to the rules and scheme on the subject. Liberty is also granted to the applicant to file a fresh representation in the matter bringing out, if necessary, new facts relating to the case and which the respondents shall be considering together with this Original Application and disposing them of by issuing a reasoned and speaking order as per the relevant rules and scheme on the subject as directed above. Applicant shall be filing his representation, if he so desired, within a period of one month and the respondents shall be giving due consideration to the same together with this Original Application and disposing them of within a period of three months thereafter.

7. The present OA stands disposed of. Accordingly, the MA 2548/2003 also stands disposed of.



(SARWESHWAR JAH)
ADMINISTRATIVE MEMBER

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