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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1633 OF 2003

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

HON'BLE SHRI SARWESHWAR JHA, ADMINISTRATIVE MEMBER

1. Om Prakash
S/o Shri Lakshman
R/o Vill. Dorala, Meerut.

2. Gangacharan
S/o Shri Jagram
R/o Vill. Machhri
Distt. Meerut.

.....Applicants
(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)

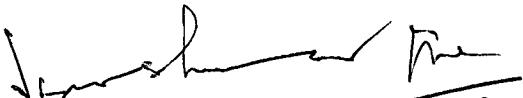
ORDER (ORAL)

MA 1353/2003

MA 1353/2003 has been filed by the applicants seeking joining together in a single application is allowed.

OA 1633/2003

This Original Application has been filed by the applicants with prayer that the respondents be directed to regularise their services keeping in view the fact that they have been in service for the last over 10 years.



2. The applicants were initially appointed by the respondents as casual labourers on 1.3.1993 and 16.2.1994 respectively and have been continuing in service with the respondents. It has been further submitted that the requisite period of service of two years have been rendered by the applicants and, therefore, they are to be considered for regularisation of their services by the respondents. Reference has also been made to the decision of the Hon'ble Apex Court in the case of Gujarat Agricultural University Vs. Rathod Labhu Bechar in 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 become 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, Sanjay Sharma Vs. Union of India, 2002 (1) ATJ 459, to buttress the same arguments as contended by the applicants earlier.

4. On perusal of what has been submitted by the applicants in paragraph 4 of the Original Application, it is also observed that the applicants have 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

I understand the

Ors. Vs. Union of India and Ors., the relevant portion of which has been extracted by the applicants in MA 2556/2003 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 in the counter reply filed by them significant point in regard to the applicant is that they have not exhausted the departmental remedies, which are available to them, and have straightway approached this Tribunal by filing this Original Application, which is not normally permissible. According to him, appropriate exercise would have been that the applicants had submitted a representation to the concerned respondent in the matter and sought 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 applicants and to do the needful with regard to consideration of the applicant for regularisation of their services, and also having regard to the facts and circumstances of the case and keeping in view the decision of the Hon'ble Apex Court

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as also those of the Allahabad Bench of this Tribunal as relied upon by the applicants, 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 Application as a representation as filed by the applicants and to consider and dispose it of properly with regard to the rules on the subject. Liberty is also granted to the applicants to file a fresh representation in the matter bringing out, if necessary, new facts relating to their cases 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. Applicants shall be filing their representation, if they so desire, 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, thus, stands disposed of. Accordingly, MA 2556/2003 also stands disposed of.



(SARWESHWAR JAH)
ADMINISTRATIVE MEMBER

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