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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.1923/2003 (MA Nos.2680/03
& MA 613/2004) with
OA Nos.477/2004, OA No.508/2004 & OA No.513/2004

New Delhi, this the 12th day of July, 2004

Hon'ble Mr. Sarweshwar Jha, Member (A)

OA NO. 1923/2003

1. Surendra Kumar S/o Harpal Singh,
R/o Jubli Mandi, Saharanpur
2. Meghraj Singh, S/o Punna Ram,
R/o Vill. Behlarpur, Distt. Saharanpur
3. Roopchand S/o Genda Ram
R/o Vill. Ghograki, P.O. Sarak, Dudhli
4. Suresh Pal S/o Braham Singh,
R/o H.No.451-D, Railway Colony, Saharanpur
5. Ramesh Chand S/o Santu
C/o RTS & Depot, Saharanpur
6. Vinod Kumar Son of Rajpal
C/o RTS Depot, Saharanpur
7. Isam Singh S/o Shiv Dayal
R/o Vill. Ghogharak, Post Sarak, Dudhli
8. Raj Kumar S/o Sevaram,
a. R/o Jubli Mandi, Saharanpur
9. Ashok Kumar-I S/o Late Amar Singh,
R/o Jubli Mandi, RTS, Saharanpur
10. Satya Pal S/o Badlu Ram,
R/o Jubli Mandi, RTS & Depot Saharanpur
11. Mohd. Ishmaile S/o Ram Jani
R/o Jail Chnugi, Muzampura, Saharanpur
12. Ashok-II S/o Amar Singh,
R/o Cooper Bagh C/o RTS Depot, Saharanpur
13. Govinda S/o Lakshman Singh,
C/o RTS & Depot, Saharanpur
14. Virendra Kumar Yadav, S/o Madhav Yadav,
R/o Vill. Bahadurpur, P.O. Kopawa, Distt. Balia
15. Phool Mali S/o Chote Lal,
R/o RTS & Depot, Saharanpur

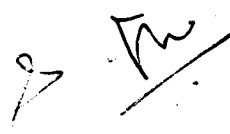
16. Pradeem Kumar, S/o Banwari
R/o V & Post Feradi, Distt. Saharanpur
17. Ram Lakhani S/o Mata Prasad,
C/o RTS & Depot, Saharanpur
18. Mamraj S/o Nandu,
Vill. Mandi, Firozpur, PO Kadin, Sekhpura
19. Khurshid S/o Hamid R/o Vill. Dabka
Janarda, P.O.Sekhpura, Saharanpur
20. Vinay Kumar S/o Shri Amar Singh
R/o Cooper Bagh RTS & Depot, Saharanpur
21. Shyam Kumar S/o Late Amar Singh
C/o RTS & Depot, Saharanpur
22. Som S/o Ratiram,
R/o Vill. Rasulpur, PO Kailash Pur, Saharanpur
23. Sundar Pal S/o Indra Singh, R/o
Vill.goraki, PO Sarak, Dudhli, Saharanpur
24. Jagpal S/o Bhopal
R/o Vill. Mubarakpur, Distt. Saharanpur
25. Pradeep Kumar S/o Shyam Lal
C/o RTS & Depot, Saharanpur
26. Raffal S/o Jagan Singh,
Vill. & Post Sarak Dudhli, Saharanpur
26. Daya Ram S/o Bhulla Ram,
R/o Vill. Nandi Khojpur, Saharanpur
27. Ramesh Kumar S/o Prabhu Ram,
C/o RTS & Depot Saharanpur
28. Dharamvir S/o Nain Singh,
C/o RTS & Depot, Saharanpur
29. Subhash Chand S/o Jagdish Prasad,
R/o Kooper Bagh, RTS & Depot, Saharanpur

(All are working as casual labourers conferred with Temporary Status with Respondent No.5)

(By Advocate : Shri V.P.S. Tyagi)

... Applicants

Versus

- 
1. Union of India (Through Secretary)
Min. of Defence, South Block, New Delhi
 2. The Quarter Master General,
QMG's Branch AHQ DHQ

P.O. New Delhi

3. The Adjutant General,
AG's Branch, ADQ DHQ
P.O. New Delhi
4. The C.D.A. (Army)
Belvadier Complex, Meerut Cantt.
5. The Commandant,
Remount Training School & Depot,
Saharanpur

... Respondents

(By Advocate : Shri D.S. Mahendru)

OA. NO.477/2004

Shri Sunder Lal S/o Inder Singh (Temporary Status)
Casual Labourer working as Farm Hand in
Remount Training School & Depot,
Saharanpur R/o Vill. Ghogrekkie
P.O. Sadak, Dudhli Distt. Saharanpur (U.P.)

... Applicant

(By Advocate : Shri V.P.S. Tyagi)

Versus

1. Union of India (Through Secretary)
Min. of Defence, South Block, New Delhi
2. The Quarter Master General,
QMG's Branch AHQ DHQ
P.O. New Delhi
3. The Adjutant General,
AG's Branch, ADQ DHQ
P.O. New Delhi
4. The C.D.A. (Army)
Belvadier Complex, Meerut Cantt.
5. Col. D.S. Teotia,
The Commandant,
Remount Training School & Depot,
Saharanpur

... Respondents

(By Advocate : Shri D.S. Mahendru)

O.A. NO.508/2004

Dinesh S/o Ram Chandra (Temporary Status)
Casual Labourer working as Farm Hand in
Remount Training School & Depot,
Saharanpur R/o Jubli Mandi
Distt. Saharanpur (U.P.)

... Applicant

(By Advocate : Shri V.P.S. Tyagi)

Versus

1. Union of India (Through Secretary)
Min. of Defence, South Block, New Delhi
2. The Quarter Master General,
QMG's Branch AHQ DHQ
P.O. New Delhi
3. The Adjutant General,
AG's Branch, ADQ DHQ
P.O. New Delhi
4. The C.D.A. (Army)
Belvadier Complex, Meerut Cantt.
5. Col. D.S. Teotia,
The Commandant,
Remount Training School & Depot,
Saharanpur

... Respondents

(By Advocate : Shri D.S. Mahendru)

O.A. NO.513/2004

Jagpal Singh S/o Bhopal Singh (Temporary Status)
Casual Labourer working as Farm Hand/Baldar in
Remount Training School & Depot,
Saharanpur R/o Vill. Mubarakpur
P.O. Saharanpur

... Applicant

(By Advocate : Shri V.P.S. Tyagi)

Versus

1. Union of India (Through Secretary)
Min. of Defence, South Block, New Delhi
2. The Quarter Master General,
QMG's Branch AHQ DHQ
P.O. New Delhi
3. The Adjutant General,
AG's Branch, ADQ DHQ
P.O. New Delhi
4. The C.D.A. (Army)
Belvadier Complex, Meerut Cantt.
5. Col. D.S. Teotia,
The Commandant,
Remount Training School & Depot,
Saharanpur

... Respondents

(By Advocate : Shri D.S. Mahendru)

ORDER (ORAL)BY SARWESHWAR JHA, A.M.:

As the cause of action and the reliefs prayed for in these OAs are broadly identical, these are being disposed of by this common order.

2. The applicants in these OAs were in the employment of the respondents on different dates in the years 1988 to 1992, initially appointed as casual labourers and had been granted temporary status under the Casual Labourers (Grant of Temporary Status & Regularization) Scheme of 1993, which came into force w.e.f. 01.09.1993. The applicants have claimed that while they rendered the requisite 240 days of service in the year 1993 itself, they were granted temporary status only in the year 1998. They have claimed that by now they have rendered more than 12 years of service. Accordingly, vide OA No.1923/2003 they have prayed for regularization of their services against Group 'D' posts with consequential benefits as provided for under the Scheme of the Department of Personnel & Training, as referred to hereinabove. It has been alleged by them that persons junior to them have been regularized by the respondents. To make the matter worse, the services of the applicants in OA Nos. 447/2004, OA 508/2044 and OA 513/2004 have been terminated vide impugned orders/verbal orders of the respondents with stipulation that the same may be treated as a notice for termination of their services under Rule 5 (1) of CCS (T.S.) Rules, 1965 whereby their services would stand terminated from the date of expiry of the period of one month from the date on which such notices were served on them.

3. The applicants have claimed that the provisions of sub-rule 5 (1) of the CCS (T.S.) Rules, 1965 are not applicable to them. They have also contended that the said action of the respondents is also opposed to the observations made by the Hon'ble Supreme Court in Union of India vs. Mohan Pal's case as decided on 29.04.2002 in Civil Appeal No.3168 of 2002 with other Civil Appeals, as reported in 2002 (1) S.C.S.L.J. 464, in which, among other things, following has been held:-

"9. Having regard to the general scheme of 1993, we are also of the view that the casual labourers who acquire 'temporary' status cannot be removed merely on the whims and fancies of the employer. If there is sufficient work and other casual labourers are still to be employed by the employer for carrying out the

work, the casual labourers who have acquired 'temporary' status shall not be removed from service as per clause 7 of the Scheme. If there is serious misconduct or violation of service rules, it would be open to the employer to dispense with the services of a casual labourer who had acquired 'temporary status'."

4. The applicant in OA No.513/2004 has also alleged that he has been denied wages for the month of January, 2004 and subsequent months. A representation in this regard appears to have been submitted by the applicant to the Commandant, Remount Training School & Depot (Respondent No.5). It is not clear from the submission of the applicant whether he has since received a reply from the said respondent or not.

5. The respondents have admitted that the applicants, who were initially appointed as Casual Labourers on required basis depending on the seasonal work load, which, according to them, is casual and intermittent in nature, were granted temporary status in accordance with the Scheme of the DOP&T of 1993 after they had completed the requisite number of working days under the respondents. While being granted temporary status, it had been made clear to the applicants vide Para 4 of RTS & Depot, Saharanpur letter dated 31.10.1997 that their services should be utilized only as on required basis because of the type of job, i.e., farm management and they may not be employed on all the days of a month. They have, however, not accepted the fact that the applicants have rendered more than 11 to 15 years of service. The respondents have submitted that since there is a ban on recruitment, the vacancies have not been released by the Government for the last five years for direct recruitment in Group D against the vacancies which exist in RTS & Depot, Saharanpur. The respondents have further submitted that the temporary status casual labourers are being granted full and complete benefits as per their respective entitlement as per clause 5 (i) to (vii) of the Scheme of 1993. There has been no harassment to the employees and the HRA & CCA are being paid as per the rules. They have also denied that there has been any threat to the applicants as alleged by them.

6. On the question of the applicant in OA No.513/2004 having not been paid salary for the month of January, 2004, the respondents have submitted that the applicant absented himself without any leave from 29.12.2003 to 26.3.2004 (60 days). He was, however, taken on duty without taking any action against him on the assurance of good conduct and

discipline. While the respondents have not said that the conduct of the applicant in the said OA has not been good or that he is indisciplined, thereafter it appears that the respondents have taken the said act on the part of the applicant as serious, as indicated by their subsequent action taken in the month of February, whereby vide a verbal order, he has been given a notice for termination of his services under the CCS (T.S.) Rules, 1965, as alleged by the applicant.

7. In the rejoinders which have been filed by the applicants, it has been re-emphasized that the applicants should have been granted temporary status in the year 1993 itself when they had completed more than 240 days of service and not in the year 1998. According to them, they have put in more than 12 years of service including 11 years as temporary status casual labourers. Their continuance in the employment of the respondents for such a long period confirms that the respondents had work of regular nature as held by the Hon'ble Supreme Court in the case of State of Punjab vs. Piara Singh and thus have become entitled for absorption in regular Group 'D' posts. They have further argued that termination of their services on whimsical grounds is motivated with malice and is against what has been held by the Hon'ble Supreme Court in Mohan Pal's case (supra).

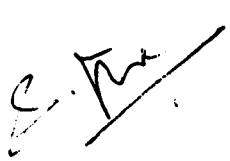
8. On closer examination of the facts as submitted by the applicants and also the respondents in these OAs, it is observed that some of the questions have been left unanswered. While the applicants have claimed that they should have been granted temporary status in the year 1993 itself when they had rendered more than the requisite 240 days of service as casual labourers, the same has not been disputed by the respondents. They have also not explained as to why temporary status was granted to the applicants after about 5 years of the Scheme of the DOP&T having been brought into force. It appears that the applicants were denied the benefit of this Scheme for no obvious lacunae/fault on their part. It is also not quite clear from what has been submitted by the respondents as to why they did not consider it appropriate to comment on whether the work against which the applicants have been employed for such a long period as, say 12 years, according to the applicants and for more than 5 years according to the respondents, could still have been termed as seasonal and not regular, as per the observations of the

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Hon'ble Supreme Court in Mohan Pal's case; rather, it does not stand to reason or logic. While it could be possible that the respondents may not have regular group 'D' posts against which the applicants could have been considered for regularization, to hold out the threat of notice for termination of services under CCS (T.S.) Rules, 1965 without being very explicit on the conduct and discipline of the applicants does not appear to be quite tenable in terms of the principles as held by the Hon'ble Supreme Court in Mohan Pal's case (supra). Coming to the issues as raised by the applicant in OA No.513/2004 in regard to his salary for the month of January, 2004 and onwards having not been paid on account of the fact that he was absent unauthorisedly, it is not clear whether the provisions of the Casual Labourers (Grant of Temporary Status and Regularization) Scheme of 1993 in regard to grant of leave vide paragraph 5 (iii) thereof have been kept in view by the respondents while denying him the salary for the said period.

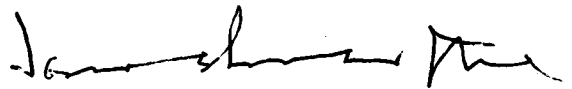
9. After having accepted the fact that the applicants have rendered not less than 240 days of service as Casual Labourers in the year 1993, which fact has not been disputed by the respondents, and also after having granted temporary status to them in the year 1998, it appears quite rational that the matter should have been taken to its logical conclusion over a period of time, i.e., the question of regularization of the services of the applicants should have been given due and proper consideration instead of contemplating termination of their services unless there was serious mis-conduct or violation of service rules on the part of the applicants, in which case it was open to them to dispense with their services. This, however, does not seem to be the case in respect of the applicants. It has also not been clarified by the respondents as to how and under which provisions they have resorted to the provisions of CCS (T.S.) Rules, 1965, except saying that this has been done as a matter of abundant caution. This kind of position taken by the respondents is, however, not appreciated.

10. Under these circumstances and having regard to what have been submitted by the learned counsel for the parties during the course of arguments, I am inclined to allow these OAs partly with direction to the respondents that they consider the prayers of the applicants for regularizing their services against Group 'D' Posts as are available with



them not only in the organisation of respondent No.5, but also in similar organizations under Respondents 1 to 4, if they are otherwise eligible for the same under the relevant rules/instructions of the Government. The respondents are further directed to ensure that, till such time that their services are regularized, the applicants shall continue to be in their employment as temporary status casual labourers as on work basis. The respondents are also directed to release the salary of the applicant in OA No. 513/2004 for the period when he was on leave against the leave due to him as per the Scheme of Casual Labourers (Grant of Temporary Status & Regularization) Scheme, 1993. They are further directed to complete the action in regard to compliance of the said directions within a period of three months from the date of receipt of a copy of this order.

11. Accordingly, the OAs, as mentioned above, stand disposed of in terms of the above directions/observations. With this, the MAs also stand disposed of. No costs.



(Sarweshwar Jha)
Member (A)

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