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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.2532/2003

New Delhi this the 24th day of February, 2005.

HON'BLE MR. SHANKER RAJU, MEMBER (J)

Murari Lal s/o Sh. Gulzari Ram,
R/o T-8A, Old Village,
Nangal,
Delhi Cantt-110 010.

...Applicant

(By Advocate: Shri Yogesh Sharma)

-versus-

Union of India through

1. The Secretary,
Govt. of India,
Ministry of Energy,
Department of Atomic Energy,
New Delhi.
2. The Director,
Department of Atomic Energy,
Atomic Minerals Directorate for
Exploration & Research,
Begumpet,
Hyderabad – 500 016.

...Respondents

(By Advocate: Shri S.K. Gupta, proxy for Shri Madhav Panikar, Advocate)

ORDER

Applicant impugns respondents' order dated 10.03.2003 whereby in pursuance of a decision of this Tribunal in O.A. No. 3351/2002 decided on 30.12.2002, a speaking order has been passed denying him temporary status and regularisation under the DoP&T Scheme of 10.09.1993. Applicant has prayed for consideration of his case for regularisation and reengagement in preference to his juniors and freshers.

2. Briefly stated that Atomic Minerals Directorate for Exploration & Research (AMD) is a constituent wing of Department of Atomic Energy. The policy

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decisions are taken at DAE. The casual labourers, who were in engagement with the respondents as on 1.9.1993, had already been conferred with temporary status and they are 512 in number. The Field Season Programme was evolved and carried out through various Field Units set up under the respective Regional offices for intensive investigations and survey, which was to last for only six months. A fixed number of casual labourers were engaged at minimum wages upto a maximum period of 180 days between 1st November and 30th April and thereafter they were discharged. These '180 days category' casual labourers were not necessarily reengaged in the Field Season Programme.

3. Learned counsel for the applicant stated that applicant had been in engagement on casual basis continuously from 10.11.1986 till 2001 and as others had been conferred temporary status w.e.f. 9.9.1993, his claim was rejected on the ground that he had never completed 240 days as per the Scheme and the work was seasonal. Engagement of 180 days casual labour is in number and not by name as first come first serve basis, which according to the applicant is contrary to the decision of the Apex Court in the case of **Morinda Co-op. Sugar Mills Ltd. vs. Ram Kishan & Ors etc.**, JT 1995 (6) SC 547, where the observation as to retrenchment under the Industrial Disputes Act was to the effect that in a seasonal work, respondents cannot be said to be retrenched. Accordingly, register for all workmen engaged during the seasons is to be maintained and were to be reengaged as per the seniority and availability of work. In this view of the matter, it is stated that the applicant is entitled to be accorded the same benefit of temporary status and consideration for regularisation and re-engagement

4. Learned counsel for the respondents vehemently opposed the contention and stated that DoP&T Scheme would not apply to the applicant as he was not in service on 1.9.1993 and having completed only 180 days in each year, he does not fulfil the requirement of the Scheme.

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5. I have carefully considered the rival contentions of the parties and perused the material on record. DoP&T Scheme of 10.9.1993 is one time measure and those are in position of 1.9.1993 having completed 240/206 days are to be accorded temporary status and regularisation which is no more res integra in the light of the decision of the Apex Court in SLP (C) 2224/2000 in the case of *Union of India vs. Mohan Pal*. In the case of applicant though he might have competed 180 days service in different years or assuming the requisite days as prescribed in the Scheme yet on 1.9.1993, he was not in engagement in view of para 4.1 of the O.A., the Scheme would not apply to his case.

6. However, as regards re-engagement the decision of the Apex Court in *Ram Kishan* (supra) though specifically dealt with the Industrial Disputes Act but the ratio clearly shows that for a seasonal work of Crushing etc., a register is to be maintained and person be re-engagement in accordance with seniority and availability of vacancy. A person, who has already worked, has sufficient experience and his claim for re-engagement is to be considered in preference to his juniors and outsiders.

7. As regards 512 persons who have been accorded temporary status and regularisation, they are situated differently and had competed 240 days on 1.9.1993, I do not find any discrimination meted out to the applicant.

8. However, the Apex Court recently in a case of Home Guard in *State of West Bengal & Ors. vs. Pantha Chhaterjee*, 2004(1)SLJ SC 135 held that if a causal labour is continued for several years, it takes away the character of casual employment.

9. In the above view of the matter, though rejecting the request of the applicant for grant of temporary status, the Original Application is partly allowed to the extent that respondents shall consider the case of the applicant for re-

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engagement in preference to his juniors and outsiders as per rules and instructions on the subject.

10. As far as regularisation is concerned, it is for the Government, as a policy decision, to consider this aspect and to sympathetically remove the apathy of the applicant as he had worked for number of years with the respondents. No costs.

S. Raju
(Shankar Raju)
Member (J)

24/2/05