

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C.) No. 18585/2004**

% **Date of Decision: 10th September, 2009**

WILDLIFE INSTITUTE OF INDIA

..... PETITIONER

! Through: Mr. Raj Birbal, Sr. Advocate with Ms. Raavi
Birbal for the petitioner

VERSUS

\$PRESIDING OFFICER & ORS.

.....RESPONDENTS

^ Through: Mr. Sachin Dutta for respondent No. 2/UOI.
Mr. M.C. Pant for respondent No. 3.

AND

+ **W.P.(C.) No. 580/2005**

WILDLIFE INSTITUTE OF INDIA

..... PETITIONER

! Through: Mr. Raj Birbal, Sr. Advocate with Ms. Raavi
Birbal for the petitioner

VERSUS

\$SH. OM PRAKASH PUN & ANR.

.....RESPONDENTS

^ Through: Mr. M.C. Pant for respondent No. 1.
Mr. Sachin Dutta for respondent No. 2.

AND

+ **W.P.(C.) No. 1569/2005**

WILDLIFE INSTITUTE OF INDIA

..... PETITIONER

! Through: Mr. Raj Birbal, Sr. Advocate with Ms. Raavi
Birbal for the petitioner

VERSUS

\$SH. HIRA LAL SHARMA & ANR.

.....RESPONDENTS

^ Through: Mr. M.C. Pant for respondent No. 1.
Mr. Sachin Dutta for respondent No. 2.

AND

+ **W.P.(C.) No. 11094/2005**

WILDLIFE INSTITUTE OF INDIA

! PETITIONER
Through: Mr. Raj Birbal, Sr. Advocate with Ms. Raavi
Birbal for the petitioner

VERSUS

\$SH. JITENDER SINGH RAWAT & ANR

^ RESPONDENTS
Through: Mr. M.C. Pant for respondent No. 1.
Mr. Sachin Dutta for respondent No. 2.

CORAM:
Hon'ble MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper may be allowed to see the judgment? **NO**
2. To be referred to the reporter or not? **NO**
3. Whether the judgment should be reported in the Digest? **NO**

S.N.AGGARWAL, J (ORAL)

All these four writ petitions are proposed to be disposed of by this common order because question of facts and law involved in all of them are identical.

2 There are four workmen in these four petitions and they are S/sh. Mukti Prasadi Sharma, Om Prakash Pun, Hira Lal Sharma and Jitender Singh Rawat. They were employed with the petitioner management as casual daily wagers for a short period of less than 1- ½ years between 08.11.1985 to 30.04.1987. The services of these four workmen were terminated by the petitioner management in April, 1987. They aggrieved by their termination had raised an industrial dispute which was referred by the Central Government for adjudication to the CGIT. The terms of reference were as under:-

“Whether the action of the management of Wild Life

Institute of India, Dehradun in terminating the services of S/sh. Mukti Prasadi Sharma, Om Prakash Pun, Hira Lal Sharma and Jitender Singh Rawat. casual daily rated workers w.e.f. 30.04.1987/09.05.1988 is justified? If not, what relief is the workman concerned entitled to?"

3 The CGIT has passed the following award in favour of the workmen:-

"The action of the management in terminating the services of the workmen cannot be justified. It is absolutely illegal and against the provisions of law. Hence liable to be quashed and all the workmen claimants are entitled to be reinstated with continuity of service and also get all consequential benefits. However, in the facts and circumstances of the cases, they are also entitled to get back wages @ 30% only. They shall also be entitled to get the same scale of wages which their counter parts were getting in regular appointment as per rules and also to be considered for regular appointments in accordance with rules wherever regular vacancy occurs. All the workmen shall be reinstated and paid back wages by the management within two months from the date of publication of the award in the official gazette."

4 The management of the petitioner being aggrieved by the above order of the CGIT has filed the present writ petitions seeking quashing of the said award.

5 During the pendency of the present writ petitions, the management of the petitioner vide its office memorandum dated 08.02.2005 has reinstated all the above named four workmen as casual daily labours w.e.f. their date of reporting for duty and also agreed to grant them 30% back wages for the period from 01.05.1987 till the date of their reinstatement. The office memorandum dated 08.02.2005 issued by the management of the petitioner is extracted below:-

Dated: 8th February, 2005.

OFFICE MEMORANDUM

Pursuant to the award of the Central Government Industrial Tribunal, Delhi dated 05.05.2004 which was published in the Gazette Notification of Ministry of Labour dated 14.05.2004 following workmen are hereby reinstated as casual daily labour with effect from their date of reporting for duty:

Sl. No.	Name	Address
1	Sh. Mukti Prasad Sharma	House No. 150, Village Kaulagarh, P.O. New Forest, Dehradun
2	Sh. Om Prakash Pun	Village Naya Gaon, Nail Basi, Post Office Anarwala, Dehradun Cantt. Dehradun.
3	Sh. Hira Lal Sharma	C/o Lal Mahadeo Prasad, Dhartawala, Pandiwari, Premnagar, Dehradun.
4	Sh. Jitender Singh Rawat	53, New Colony, Ballupur, Dehradun.

2 *they shall also get 30% of the back wages for the period from 01.05.1987 to their date for report of duty calculated on the basis of the rate of which they were getting on their date of termination from service.*

3 *The aforesaid workmen should report for duty to Field Technical Officer, Wildlife Institute of India, Dehradun within 15 days from the date of issue of this order.*

Director"

6 In view of the above office memorandum of the petitioner, the impugned award dated 05.05.2004 in ID Nos. 52-54/1994 & 64/1994 seems to have been partly implemented by the petitioner management and the writ petitions to that extent are rendered infructuous. However, the impugned award also directs regularization of the workmen and directions to pay them wages paid to their counter parts in regular employment. This portion of the impugned award is liable to be set aside

because it is beyond the terms of reference extracted above. Moreover the workmen being the daily rated casual labours are not even otherwise entitled for regularization or for same pay paid to the regular employees in the establishment. It was held by the Hon'ble Supreme Court in ***Himanshu Kumar Vidyarthi & Ors Vs. State of Bihar & Ors. reported as AIR 1997 SC 3657*** that the daily rated employees have no right to the posts, their disengagement by the management cannot be termed as arbitrary. Since in the present case, the workmen who are parties/ respondents in these petitions were admittedly employed as casual daily rated workers, they are not entitled either for regularization or for parity of pay paid to the regular employees as they stand on different footing. standings. The impugned award in so far as it directs regularization of the workmen and for payment of same wages as paid to the regular employees suffers from perversity and the award to that extent is therefore set aside.

7 In view of what has been stated above, these writ petitions are partly allowed. The impugned award, to the extent it directs regularization of the workmen who are parties/ respondents in these writ petitions and for payment of same wages to them as are paid to the regularly appointed employees, is hereby set aside. However, in case the petitioner management in future takes a policy decision for regularising the casual labours working in its establishment then it will also consider the workmen for their regularization strictly in terms of its said policy. The parties are left to bear their own costs.

8 A copy of this judgment be kept in the files of all the writ petitions which have been disposed of by this common order.

September 10, 2009, a

S.N.AGGARWAL, J