

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1031/2000
MA 1308/2000

New Delhi, this the 29th day of November, 2000

Hon'ble Mr. Justice V.Rajagopala Reddy, VC (J)
Hon'ble Sh. Govindan S. Tampi, Member (Admn)

In the matter of :-

1. All India RMS & MMS Employees Union
Mail Guards & Group 'D', through
Shri Bhagwan Dass, S/o Sh. Hari Singh, General
Secretary, Central Headquarters, D-7 Samru Place,
New Delhi - 110001
2. Sh. A.K.Chauhan, S/o Sh.Karan Singh
3. Sh. S.C.Gupta, S/o Sh. Bankey Lal Gupta
4. Sh. R.C.Kashyap, S/o Sh. Siya Ram Kashyap
5. Sh. Sunder Sharma, S/o Sh. Har Narain Sharma
6. Sh. OM Prakash 8th, S/o Sh. Dunger

The applicant No.1 is the All India Union of RMS & MMS Employees Mail Guards and Group 'D' in the Deptt. of Posts. The applicants No.2 to 6 are employed as Group 'D' employees in Delhi/New Delhi RMS in Delhi Postal Circle. The address for service of notices for all the above applicants is C/o Sh. Sant Lal, Advocate, C-21 (B) New Multan Nagar, DELHI - 110056.

...Applicant

(By Advocate : Sh. Sant Lal)

V E R S U S

1. The Union of India, through the Secretary,
Ministry of Communications, Deptt. of Posts
Dak Bhawan, New Delhi - 110001
2. The Chief Postmaster General, Delhi Circle,
Meghdoot Bhawan, New Delhi - 110001
3. The Secretary, Ministry of Personnel, P.G. &
Pension, (Deptt. of Personnel & Trg.) Govt. of
India, North Block, New Delhi - 110001.

...Respondents.

(By Advocate : Sh. S.Mohd.Arif)

O R D E R (ORAL)

Justice V.Rajagopala Reddy,

The only question that arises in this case is whether the increment earned by the casual labourers on the confirmment of temporary status could be taken away on his regularisation against a group 'D' post.

CAB

The applicants in this case have been appointed on group 'D' post in Delhi Shorting Division, they had initially been engaged as casual labourer. They worked as such during the period of 1979 to 1983. Thereafter, they were granted temporary status w.e.f. 29-11-89. They were directed to be treated at par with group 'D'. On completion of 3 year service as temporary status, they have been appointed on regular basis during 1998-99 and during that period they had earned increments. However, by an order dated 29-1-98, (Annexure-A1) in this OA, their pay scale on regularisation has been directed to be fixed at the minimum of the pay scale of group 'D' post thereby nullifying the increments earned by them during the period they were appointed on temporary status as casual labourers.

2. Learned counsel for the applicant contends that the impugned order is illegal and the respondents have no right to take away the increments earned by the employees during the service on any ground. Learned counsel relies upon the case of K.Rajaiah & Anr. Vs. Union of India & Ors., OA 1051/98 (Hyderabad Bench) decided on 10-02-2000.

3. Learned counsel for the respondents, however, contends that the OA is pre-mature and that as the increments have not been recovered from the applicants and their pay has not been re-fixed at the minimum of the scale, so far the applicants have no cause of action to file this OA.

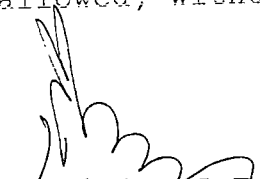


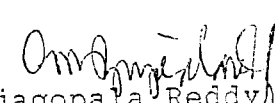
4. Having heard the learned counsel, we find force in the contention of the learned counsel for the applicants. The perusal of the impugned order clearly shows that the respondents have taken a decision to fix the applicants' pay at the minimum of the pay scale. They had taken a decision not to grant the increments earned by the applicants during their period when they were working as temporary status casual labourers. The applicants, therefore, have a cause of action to file the OA.

5. This case is squarely covered by the judgment of the Hyderabad Bench in the case of K. Rajaiah (supra) where it was stated as under :-

" The applicants have earned their increments because of their working as temporary status casual mazdoors. Their career as temporary status casual mazdoors cannot be washed away when they were regular mazdoors by refixing their pay at the minimum pay scale. We see no justification to reject the case of fixation of pay of applicants at the time of regularisation on the basis of last pay drawn by them as temporary status casual mazdoors ... "

6. In the circumstances, the OA succeeds and the impugned order is quashed. The OA is accordingly allowed, without costs.


(Govindan S. Tampi)
Member (Admn)


(V. Rajagopala Reddy)
Vice-Chairman (J)

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