

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO. 170/00172/2020

AND

ORIGINAL APPLICATION NO. 170/00173/2020

DATED THIS THE 05TH DAY OF MARCH, 2020

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C V SANKAR, MEMBER (A)

Shri N. Papanna
Aged about 57 years
S/o Late Ningaiah
Skilled Farm Worker (TS)
TSFW No. 100446
Silkworm Pathology Section
Central Sericultural Research and
Training Institute, Central Silk Board,
Govt. of India, Ministry of Textiles,
Manandavadi Road, Srirampura
Mysore 570 008
R/o Door No. 173,
Devaiahanhundi, Srirampura 2nd Stage,
Mysore Taluk & District
Karnataka 570 023

.....Applicant OA.No.170/00172/2020

Shri Hucheera @ Huchira
S/o Late Hucheeraiah
Aged about 57 years,
Skilled Farm Worker (TS)
TSFW No. 100672
Farm Management Section
Central Sericultural Research and
Training Institute, Central Silk Board,
Govt. of India, Ministry of Textiles,
Manandavadi Road, Srirampura,
Mysore 570 008

Permanent R/o
 Jodi Neralekere Village
 Kalludevanahalli Post,
 Vanakere Hobli,
 Nagamangala Taluk
 Mandya District
 Karnataka 571 432

.....**Applicant OA.No.170/00173/2020**

(By Advocate Shri Ravikanth A & B.M. Lokesh)

Vs.

1. Central Silk Board

Represented by its CEO & Member Secretary,
 Central Silk Board, CSB Complex,
 BTM Layout, Madivala
 Bengaluru 560 068,
 Karnataka State

2. The Director

Central Sericultural Research & Training Institute
 Central Silk Board, Mananthavady Road,
 Srirampura, Mysore 570 008

3. Ministry of Textiles

Union of India/
 Govt. of India
 Represented by its Secretary
 Udyog Bhavan, New Delhi 110 011

....**Respondents**

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

We had disposed the connected matters on 04.03.2020 with OA No.
 OA No. 170/00299/2018 as the leading case, which we quote:

“O R D E R

(HON'BLE DR. K.B. SURESH, MEMBER (J))

***The matter is in relation to equality of life and
 livelihood amongst government employees.***

2. *By common consent OA No. 170/00299/2018 is treated as leading case. The respondent Central Silk Board seems to have taken contradictory views in the Industrial Tribunal, before the Hon'ble High Court, and several Benches, and before the Tribunal also. The worker has completed 32 years of service.*

3. The case in a nutshell is available in its entirety in 3 documentations. One is the letter No. CSB-9(1)/98-Labour/Vol-III dated 09.01.2009 issued by the Central Silk Board to the controlling Ministry - the Ministry of Textiles, which we quote:

"No. CSB-9(1)/98-LABOUR/VOL-III

DATE: 09.01.2009

To
The Joint Secretary (Silk),
Ministry of Textiles,
Govt. of India,
Udyog Bhawan,
New Delhi

Sir,

Sub: Restoring of Temporary Status Scheme, 1993 to the Farm Workers of CSB – Enhancement of age of retirement of Farm Worker from 55 – 60 years – Reg.

We invite a reference to the above cited subject and to send the following two proposals to the Ministry for consideration and approval pursuant to the decision taken by the Board in its 124th Meeting held on 03.12.2008. A copy of the said Board's resolution is enclosed herewith for kind reference.

The Ministry is aware of its decision conveyed to Central Silk Board vide its letter dated 25.11.2005 granting the benefits of Temporary Status Scheme of 1993 to the Farm Workers of CSB. Pursuant to the same, the CSB extended the same to its eligible Farm Workers w.e.f. 01.12.2005 by issue of a Circular dated 15.12.2005. The Ministry is further aware that the said approval was conveyed by them in consultation with DoP&T and also Ministry of Labour. The said scheme offered to Farm Workers, the wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group-D official including Dearness Pay, Dearness Allowance, House Rent Allowance, City Compensatory Allowance and Transport Allowance. Under the said scheme, each Farm Worker got an additional financial benefit to the extent of Rupees 2800/- per month (in terms of pre-revised Group-D scale).

At this juncture, the Ministry vide its letter dated 20.01.2006 conveyed its decision withdrawing forthwith the above said approval on the ground that the said scheme does not apply to the Farm Workers of CSB as they have their scheme. As a follow-up action, the CSB by issue of a Circular dated 01.02.2006 withdrew the benefits of the scheme and put back the Farm Workers to the benefits existed prior to

01.12.2005. With the result, there was a reduction in the financial benefits to the extent of Rs. 2800/- per month. Aggrieved by the decision of the Ministry, about 1100 Farm Workers approached the Hon'ble High Court of Karnataka by way of filing Writ Petitions in batches praying for quashing of Ministry's decision of withdrawing the benefits of the Temporary Status Scheme, once extended.

As the order of withdrawal of the benefits had the impact of lowering the emoluments and same was done without issue of Show Cause Notice to the workers, the Hon'ble High Court on the grounds of principles of natural justice stayed the orders of withdrawal. As a result, the benefits of the Temporary Status Scheme had to be restored to them on the strength of Interim Orders. Finally, the Hon'ble High Court of Karnataka after hearing batch Writ Petitions in August 2007 disposed of the same on the ground that the Central Reference No. 122/99 on the same issue was then pending before the CGIT, Bangalore which had the jurisdiction to decide the case on merits. When all the Writ Petitions were disposed of, the Interim Orders passed in the said cases came to be vacated. As a result, the excess wages paid to the Farm Workers who had received the benefits of Interim Orders had to be recovered. In terms of the observations of the Hon'ble High Court, the excess wages is now being recovered from the Farm Workers from their monthly wages in instalments. This has further affected the financial position of the workers and they started agitating for restoration of the Temporary Status Scheme.

The Central Reference referred to above was also rejected by the Tribunal in favour of CSB holding that the Temporary Status Scheme will not apply to the Farm Workers of CSB. The Union representing the Farm Workers so also few Farm Workers independently have challenged the said Orders before the Hon'ble High Court of Karnataka by way of filing Writ Petitions, which are pending hearing.

There are three more Writ Petitions pending on the same issue before the Hon'ble High Courts of Jharkhand, Ranchi & Guwahati.

It is pertinent to mention that in terms of the Interim Orders of Hon'ble High Court of Karnataka in Writ Petition No. 10039/2006 for formulating an alternative scheme for the Farm Workers of CSB, the CSB accordingly formulated an alternative scheme of revision of wages of Farm Workers and forwarded the same to the Ministry vide its letter dated 09.05.2007. The said proposal offered an additional increase of Rs. 2000/- per month (in an average) per worker (Temporary Status Scheme offered an additional increase of Rs. 2800/- per month). The

Ministry while considering the said proposal, suggested to rework the proposal that the additional financial benefits proposed are further reduced. Accordingly, the proposal was reworked and a revised wage revision proposal was submitted to the Ministry which offered an additional increase of Rs. 1000/- per month per worker.

The Ministry was kind enough to approve the said proposal w.e.f. 01.07.2008 vide their letter dated 24.06.2008. The revised wage benefits was extended to all the Farm Workers w.e.f. 01.07.2008. As the said wage revision package did not meet the expected level of increase, the same was unwillingly accepted by the Farm Workers. They started further representing to various VIPs and to Board expressing their dissent to the revised wage revision package and reiterated their demand for restoration of Temporary Status Scheme.

At the above juncture, the new wage revision package extended w.e.f. 01.07.2008 to the Farm Workers was apprised to the Board at its meeting held on 11.07.2008. It was resolved in the Board that the said wage revision package should have been given effect to from a retrospective date i.e. from 01.12.2005 from which date the Temporary Scheme was extended followed by its immediate withdrawal. Therefore, the Board resolved to send a further proposal to the Ministry to the effect. According to the Board's decision, a proposal was sent to the Ministry on 04.08.2008 to provide the new wage revision benefits with retrospective effect. The financial implication has also been given to the Ministry. The said proposal is now pending.

The agitation of the Farm Workers individually so also through the Union intensified in the wake of approval of the Sixth Central Pay Commission recommendations by the Govt and extension thereof to the regular employees. The very same issue came up before the Board also at its meeting held on 03.12.2008. The Board observed that under the Sixth Central Pay Commission, a Group-D employee gets, at the minimum of the scale a total emoluments of Rs. 10,000/- per month, whereas the Time Scale Workers whose average service in the Board is 20 years are getting Rs. 4500/- (average) per month under the revised wage package w.e.f. 01.07.2008. The gap between the two groups in the matter of monthly emoluments is about Rs. 5500/- per month. The Board observed that the wages of the Farm Workers are very low and is less than the "Living Wages". They are unable to meet even their minimum basic necessities in the wake of high cost of living. Besides this, the Farm Workers have desperately fought number of litigations losing substantial portion of their earnings. Besides this, their monthly wages is being subjected to recovery in instalments of

excess wages paid to them. All these events have made them frustrated and this has an impact on the work output. Therefore, the Board taking into consideration their poor financial condition and their length of service to the Board, has resolved to recommend to the Ministry for restoration of Temporary Status Scheme to them. Hence, this proposal for kind consideration and approval of the Ministry.

It is very clear from the provisions of the scheme itself and also as per the decision of the CGIT, Bangalore and of the Ministry that the said scheme referred to above do not apply to the Farm Workers of CSB. However, the Board can adopt the same with the approval of the Ministry. As the scheme is a well drafted Government of India's scheme applicable to various Government Departments, same can be adopted by the Board to its Farm Workers, so that, long pending grievances of the Farm Workers of CSB are redressed. As and when the modifications are effected to the scheme same would apply to the Farm Workers of CSB, this would bring uniformity in their wage-structure and minimize their grievances in turn the litigations. The additional financial implication arising on consideration of this proposal is Rs. 17.00 Crores per annum.

Further to state that, simultaneously, with the consideration of the above proposal by the Board, the Board also considered the other long pending demand of the Farm Workers namely, enhancement of their retirement age from existing 55 years to 60 years. The Board observed that there is no similar organization which has fixed the retirement age of employees/workers at 55 years. Even the Employees Pension Scheme applicable to Farm Workers of CSB (under Employees Provident

Fund and Miscellaneous Provisions Act, 1952) offers payment of pension from the age of 58th year. Therefore, the Board has observed that it is just and reasonable to consider the demand of the Farm Workers for enhancement of their retirement age from 55 to 60 years which is pending since a long time. The additional financial implication arising on consideration of this proposal is approximately Rs. 62.00 Crores.

It is pertinent to mention that the Central Reference on the issue of enhancement of retirement age of Farm Workers from 55 years to 60 years before the CGIT, Bangalore is pending adjudication. There is no bar for consideration of this proposal by the Ministry, so that, the said Central Reference would be dismissed by the court as having been settled.

In the facts and circumstances cited above, the Ministry is requested to consider the above two proposals and convey additional expenditure sanction as requested above to implement the Board's resolution at the earliest.

*Yours faithfully,
Sd/-
[M. Sathiyavathy]
Member Secretary"*

4. Apparently when the employees raised a grievance under Section 10 of the Industrial Disputes Act, the Union Government had referred the dispute vide order No. L-42011/115/2007-IR(DU) dated 07.11.2007 for adjudication and it was registered as C.R. No. 151 of 2007 before the Central Government Industrial Tribunal-cum-Labour Court at Bangalore. An award was passed on 1st April, 2013 in C.R. No. 151/2007, which we quote:

"AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-42011/115/2007-IR(DU) dated 07.11.2007 for adjudication on the following schedule:

THE SCHEDULE

"Whether the demand of the Central Silk Board Employees Union for enhancement of retirement age from 55 years to 60 years for the time scale farm workers

is legal and justified? If yes, to what relief the workmen are entitled to?"

2. *On receipt of the reference registering it in C R No. 151/2007 on the file of this court when notices were issued to both the sides, they entered their appearance through their respective advocates and I Party claim statement came to be filed on 22.02.2008, whereas the counter statement of the II Party came to be filed on 12.10.2010.*

3. *In the claim statement it is claimed the Central Silk Board (hereinafter referred as II Party) running extensive centres and their sub-units, silk testing and conditioning House, textile testing centres, demonstration-cum-Training centres (for reeling and spinning), Seed production centres, Basic Seed Farm etc., engaging the casual workers to work in the said units and after they put in certain years of service absorb them as Time Scale Farm Workers (TSFWs) and since from the inception their superannuation age is fixed at 55 years and inspite of the age of retirement of its permanent employees enhanced from 55 to 58 years and then from 58 to 60 years as per the pay commission recommendations, inspite of several requests and demands no enhancement being made in the retirement age of the TSFWs a demand was put forward to enhance their age of retirement from 55 to 60 years on part with regular employees working in the board and as there was no proper response the I Party Union raised a dispute before the Regional Labour Commissioner in No. 8 (69)/99-B3 and as II party which undertake to took a proper decision in spite of several discussions failed to take a positive decision ultimately the Regional Labour Commissioner submitted his failure report, the Central Government made this reference for adjudication. It is also stated in the claim statement in several statutory bodies constituted by the Central Government like National Seeds Corporation Limited, Indian Institute of Horticultural Research etc., the age of retirement of casual labourers enhanced to 60 years as per the Central Pay Commission recommendations refusal on the part of the II party to enhance the retirement age of TSFWs from 55 years to 60 years is prejudicial to them and they are entitled for enhancement of their retirement age from 55 to 60 years. Inter alia, in the counter statement the demand of the I party is opposed on the ground that fixation of retirement age being a policy decision this court has no jurisdiction to adjudicate on the same and that since II Party is operating under Ministry of Textiles, Government of India engaging workers for various manual nature of work under CSB and they are called as Casual or Time Scale Farm Workers and that in August 1970 a settlement was entered into between one of the Research Institute (Central Sericulture and Research*

Training Institute, CSB, Mysore) and the then existing Labour Union and as per the said settlement the retirement age of casual and time scale farm workers being fixed at 55 years and same is continued upto now, there is no justification in asking for enhancement of the retirement age from 55 to 60 years. It is further contended the casual workers and TSFWs being not the Permanent/Regular employees of the II Party they cannot claim the benefit extended to the regular employees with regard to their retirement age on par with the Central Government Employees. Thus it is contended that the demand of the I Party Union being not legal and justified.

4. *After completion of the pleadings when the learned advocate appearing for the I party was called upon to lead evidence, he filed the affidavit of Ravish Kondancha, treasurer of the CSB Employees Union (herein after referred as I Party) and examining him on oath as WW 1 got exhibited Original Memorandum dated 19.11.1989; copy of the Representation submitted by the CSB Employees Union dated 06.10.1999 & 13.10.1999; copy of the Representation submitted by the CSB Employees Union dated 19.1.2000; copy of the circular dated 28.07.1998 issued by the National Seeds Corporation Limited; copy of the Circular dated 05.06.1991 issued by the Indian Council of Agricultural research; Original Notice dated 10.05.2011; copy of the workmen appointment Pay and Allowances regulations, 1988 of National Dairy Development Board; attested copy of a study on Age of Superannuation of Central Government Employees in Institute of Applied Man Power research; copy of letter dated 04.11.2010 addressed by the II Party to the Ministry of Textiles and letter dated 10.02.2011 given on RTI Application and copy of the letter dated 10.11.2011 by the I Party Union to the Ministry of Textiles as Ex W-1 to Ex W-11 and in his cross-examination by the learned advocate appearing for the II Party copy of the letter dated 08.08.2012 issued by the Ministry of Textiles, New Delhi to the II Party got marked as Ex M-1. Inter alia, the learned advocate appearing for the II party while filling the affidavit of Sh A. N. Yadhunath Rao, Assistant Director examining him on oath as MW 1 got exhibited copy of the agreement between the CSRTI Union and the II Party management dated 01.08.1970 as Ex M-2 and in his cross-examination the learned advocate appearing for the I party got exhibited copy of report of committee constituted during 2005 for adopting temporary status scheme of 1993 ad Ex W-12.*

5. *With the above pleadings and evidence placed on record by both the sides, the arguments addressed by both the sides were heard.*

6. *On appreciation of the pleadings, oral and documentary evidence placed on record by both the sides in the light of the arguments addressed by the learned advocates, I have arrived at conclusion the demand of the Central Silk Board Employees Union for enhancement of retirement age from 55 years to 60 years for the time scale farm workers being legal and justified and that they are entitle for enhancement of their retirement age from 55 years to 60 years for the following reasons:*

REASONS

7. *Admittedly, the services of the TSFWs are not regularized and their claim in that respect being denied by this court they have approached the Hon'ble High Court of Karnataka in W P No. 26513/2007 and WP No. 19130/2007 and if at all their services were regularized as per their claim pending in their Writ Petition their age of superannuation would have been automatically enhanced to 60 years and there would have been no necessity to proceed with this reference. Only because the present age of retirement of TSFWs is 55 years as per the settlement/agreement it is not a ground to reject their claim for enhancement of the retirement age to 60 years. As rightly urged on behalf of the I Party workmen the II Party itself in its letter addressed to Joint Secretary (Silk), Ministry of Textiles dated 04.11.2010 marked as Ex W-9 having unequivocally stated:*

"The Casual Labourers/Farm Workers working in other autonomous bodies like coffee Board, Spices Board, IIHR and Nation Seeds Corporation Limited, etc., have fixed the retirement age of their Casual Labourers/Farm Workers at 58 years/60 years. The copies of replies received from the said organizations are enclosed herewith for ready reference. It is pertinent to state that there is no other organization found to have fixed the retirement age at 55 years for such category of workers. It is also relevant to mention that the Farm Workers of CSB are covered under the Employees Provident Fund and Miscellaneous Provisions Act, 1952, and are contributing towards EPF and other benefits under the said act. The said Act apart from providing EPF benefits to its subscribers, also provides for payment of monthly Pension and also Family Pension to the subscribers/their nominees based on the qualifying serviced, rate of contribution etc. The monthly Pension under the said Act becomes payable at a subscriber on attaining the age of 58 years. If a subscriber opts for pension at the age of 55 years, he will get lesser pension or alternatively a certificate giving commitment to the subscriber to pay the pension from 58th year in which case he will not get any

pension from 55th to 58th year. In view of these statutory provisions, our Farm Workers are deprived of pension immediately on their superannuation at the age of 55 years or they will have to be satisfied with lesser rate of pension. In these circumstances, it is just and reasonable that their age of retirement is enhanced to 58 years. The pendency of the aforesaid case does not come in the way of consideration of this proposal by the Ministry and in case the ministry considers this proposal, the Board can seek dismissal of the Central Reference as settled. The financial implication of this account works out to approximately Rs. 2.05 crores per year."

8. *It is a clear admission the age of the retirement of such type of workers in other similar organisations are raised to 58 and 60 years there are no reasons for the II party to disown their own recommendations or to refuse the claim of the I Party Union. When this recommendation was made to the Textile Ministry, the Textile Ministry without disputing this position in the reply dated 08.08.2012 copy of which is produced at Ex M-1 while agreeing to enhance the retirement age of TSFWs from 55 years to 58 years w.e.f. 16.07.2012 with certain other conditions imposed a condition at clause (d) that the TSFWs and their Unions shall withdraw all the cases filed in different courts for grant of temporary status and undertake not to raise these issues any further or claim temporary status in future which clause is not accepted by I Party. Thereby the II Party as well as its controlling Ministry practically agreed the demand for enhancement of the age being justified but unnecessarily insisted the Union and the TSFWs to withdraw all cases filed in different court and to undertake not to raise such issues any further. When admittedly the casual labourers working in similar organisations are given the benefit of serving till attaining the age of 60 years their claim that they too are entitled to serve till attaining the age of 60 years is legal and justified. As rightly urged on behalf of the I Party workmen the condition of the Textile Ministry that they should withdraw all their case and undertake not to raise these issues any further or claim temporary status in future in unreasonable and they should allow such demand of workmen to be decided by the appropriate/competent courts before which such matters are pending.*

9. *It was vehemently argued by the learned advocate appearing for the II party that when the Union Representing the casual labourers and TSFWs working in the II Party by way of settlement agreed the age of superannuation is to be 55 years, unless the same is duly cancelled their demand for enhancement of superannuation age of 60 years is untenable.*

The alleged agreement relied upon by the learned advocate appearing for the II Party is produced at Ex M-2. On entire reading of the agreement there is no specific clause as to the superannuation age but only under clause (2) of the agreement with regard to the strength of the labourers to be given the wage scale benefits shall be restricted to 75 in number and that the initial encaderment will be on the basis of strict seniority from among those within the age of superannuation, referred to as 55 years. The said clause in the agreement is as under:

"Clause 2: It was also agreed upon that the permanent strength of the labourers to be given the above wage scale benefits will be restricted to seventy five (75) in number (excluding watch and ward staff). The initial encaderment will be on the basis of strict seniority from among those within the age of superannuation namely 55 years."

10. *Since in the year 1970 the age of the Superannuation of Regular Employees of II Party par with the Central Government Employees was also 55 years the superannuation age of these workmen must have also been referred as 55 years, therefore, on this ground also when as per the recommendations of the Central Pay Commission from time to time the superannuation age of the regular employees of the II party have been enhanced and as per the recommendations of the 5th pay Commission the enhancement of regular employees of the II Party have been raised from 58 years to 60 years for the same benefit the I Party workmen are also entitled to.*

11. *The learned advocate appearing for the II Party while referring to the certain admissions in the Cross-examination of WW 1 the nature of job of TSFWs being that of a casual labourer involving physical labour urged that such workmen cannot work after attaining the age of 55 years as such also their claim for enhancement of age of superannuation from 55 years to 60 years is not justified. With due respect to the learned advocate appearing for the II party there is no evidence that the efficiency of a physical labourer in these days will be diminished after attaining the age of 55 years comparative to the employees working sitting on the chairs. On the other hand in my opinion the health of a worker involving a physical labour will be stronger/healthier comparative to the employees working sitting on the chairs which is sedentary. In the upshot of the above discussion, I arrive at the conclusion the demand of the Central Silk Board Employees Union for enhancement of retirement age from 55 years to 60 years for the time scale farm workers is legal and justified and that they are entitled to*

enhancement of superannuation age from 55 years to 60 years. In the result, I pass the following Order:

ORDER

The reference is allowed holding that the demand of the Central Silk Board Employees Union for enhancement of retirement age from 55 years to 60 years for the time scale farm workers is legal and justified and that they are entitled to enhancement of their retirement age from 55 years to 60 years.”

5. Vide this award, the Tribunal had granted the employees the right to continue till their superannuation on attainment of age of 60 years.

6. In the meanwhile, the Union Government in the Ministry of DoPT had declared a scheme called Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India 1993, which we quote:

“APPENDIX

Ministry of Personnel, Public Grievances and Pensions
(Dept. of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993."

2. This Scheme will come into force w. e. f. 1.9.1993.

3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.

4. Temporary Status

(i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).

(ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.

(iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.

(iv) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

5. Temporary status would entitle the casual labourers to the following benefits:-

(i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including DA, HRA and CCA

(ii) Benefits of increments at the same rate as applicable to a Group 'D' employee would be taken into account for calculating pro-rata wages for every one year of service subject to performance of duty for at least 240 days, 206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.

(iii) Leave entitlement will be on a pro-rata basis at the rate of one day for every 10 days of work, casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.

(iv) Maternity leave to lady casual labourers as admissible to regular Group 'D' employees will be allowed.

(v) 50% of the service rendered under temporary status would be counted for the purpose of retirement benefits after their regularisation.

(vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two sureties from permanent Government servants of their Department.

(vii) Until they are regularized, they would be entitled to Productivity Linked Bonus/ Adhoc bonus only at the rates as applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in Industrial establishments in view of provisions of Industrial Disputes Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

8. Procedure for filling up of Group 'D' posts

(i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfill the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.

10. In future, the guidelines as contained in this Department's OM dated 7.6.88 should be followed strictly in the matter of engagement of casual employees in Central Government offices.

11. Department of Personnel and Training will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time."

7. Therefore the employees claim they were granted a temporary status but later on after several years it was sought to be withdrawn but it was challenged.

8. In the meanwhile, the Hon'ble High Court of Karnataka in Writ Petition No. 18693/2014 vide order dated 30.04.2014 had passed an interim order which we quote:

"High Court of Karnataka

Daily Orders of the Case Number: WP 18693/2014 for the date of order 30/04/2014

Hon'ble Justice RAM MOHAN REDDY

30/04/2014

Order in WP 18693/2014

The Union of India-2nd respondent was not a party before the Central Industrial Tribunal, therefore notice to 2nd respondent is unnecessary. The reference of the industrial dispute and its adjudication is only as between the petitioner and the 1st respondent-Union and on that score too notice to 2nd respondent is unnecessary. 2nd respondent, at best, could have been a witness for the petitioner and not a party and therefore is not a proper and necessary party for this proceedings. Sri.V.S.Naik, learned counsel for the caveator takes notice for the 1st respondent. Heard the learned counsel for the parties and perused the award impugned. There is no dispute that during the pendency of the industrial dispute, the Central Government issued a letter dt. 8.8.2012 Annexure-N, permitting the petitioner to extend the benefit of retirement age upto 58 years in respect of Timescale farm workers. The order of reference also discloses that the justification for enhancement of retirement age from 55 years to 60 years, is a burden cast on the 1st respondent-Union. Prima facie what is discernible is that the 1st respondent-Union placed strong reliance on the recommendation of the Fifth Pay Commission by which the age of retirement of Central Govt. employees was enhanced from 58 to 60 years, as also the admission in the cross-examination of MW-1 over the enhancement of retirement age from 58 to 60 years of identical workmen in the National Dairy Development Board, National Seeds Corporation Limited and Indian Council for Agricultural Research. It is no doubt true that the petitioner asserted that policy decisions such as retirement age was required to be taken by the Central Government in view of Section 11 of the Central Silk Board Act, 1948 and petitioner was bound by such a decision.

Nevertheless, the question that requires to be answered is whether there was justification for enhancement of age from 55 to 60 years as the age of retirement of the Time scale farm workers. If regard is had to the letter dt. 8.8.2012 Annexure-N, it is needless to state that there shall be an interim order staying the award impugned subject to petitioner implementing the letter dt. 8.8.2012 Annexure-N for the Timescale farm workers of the Board until further orders.”

9. *The Hon’ble High Court has examined the possibility of enhancement of age of superannuation from 58 years to 60 years. The Hon’ble High Court held that on implementing the letter dated 08.08.2012 the award in C.R. No. 151/2007 will be stayed. It is submitted at the bar that this matter is now pending before the Hon’ble High Court of Karnataka.*

10. *But in the meanwhile, in apparently an overreach and against the principles of Article 14 and 21 of the Constitution of India, the respondent produces a list of people who will retire at the age of 58 even though matters concerning their status till 60 is still being considered by the Hon’ble High Court of Karnataka. Apparently several other proceedings had taken place between the employees on the one hand. The respondents challenges the application on the ground that since the applicants are to be taken as industrial workers this Tribunal may not have jurisdiction in entertaining their case. But apparently it is pointed out that in that case it should be the Industrial Tribunal who will be having the jurisdiction. But apparently there also the respondents have taken a view that Industrial Tribunal also will not have a jurisdiction as the applicants are not industrial workers. This conflict they have not chosen to respond to even though repeatedly asked of them.*

11. *But they would say that Annexure-R3 is a policy decision of the Central Government and issued under Section 11 of the Central Silk Act and the Board is bound by it. Therefore, what is the policy decision which has been agitated in many a fora before, and the question is not the applicability of policy or whether there can be different kinds of policy in the same matrix unless a proper classification can be made. We had therefore carefully gone through the evidence rendered in the Union Government reference in C.R. No. 151/2007. It appears that the government in many of its Boards, which is a fully funded instrumentality under it, had granted equivalence of 60 years which is currently the basis under Fundamental Rules for superannuation of any government servant. Therefore, unless it is stipulated and established that the Central Silk Board workers are a separate category attaining a classification which is different from all other government employees, there cannot be any differentiation or discrimination between all of them. Even though specifically pointed it out to them, no clear cut reply is coming from them other than stating*

that the earlier decisions which the Board itself had taken to increase the age of superannuation of the workers to 60 was an erroneous one and even the grant of temporary status was an erroneous one and it was taken on compulsion from the Hon'ble High Court of Karnataka. The applicant therefore points out that if they felt that the Hon'ble High Court of Karnataka was needlessly compelling them to implement the same policy for all workers at the same level they could have gone to the Hon'ble Apex Court in challenge which they did not.

12. *But then the Board says that this involves a heavy financial liability on the Board and therefore it creates administrative constraints. Therefore we had discussed the matter with both the counsels and it is apparent that there is a need for the work to be done in the institution concerned, as such, some workers will be needed to do the work. The only question is therefore will 'x' continue to work for two more years or not. When 'x' retires on superannuation, a 'y' may have to be recruited again to continue with the same kind of work. Because the fundamental work of the Central Silk Board relate to silkworms and their generation and consequences. It therefore requires workmen.*

13. *But the Board says that these are just workmen and not the holders of a sanctioned post. But then the applicant would submit that this matter is squarely covered by the Umadevi judgment of the Hon'ble Constitution Bench of the Hon'ble Apex Court. The current applicant had put in more than 32 years in service and at the fag end of the service he is told that he is not a government servant whereas he comes under the aegis of the government regulations which is issued from time to time. The respondent Board would say that when the applicant was appointed no application was called for, nor any interview held before the appointment. The Deputy Director of Silkworm Cocoon Procurement Centre, Kunigal obtained an application and directly appointed him as a casual labourer. They would say that there are no records pertaining to this appointment as it is more than 30 years. Therefore, they would say that applicant is not covered by any recruitment rules. The applicant would counter this by saying that nobody prohibited the respondents from creating a set of rules applicable to its own workers since for the procurement centres there has to be workmen.*

14. *The Board would counter it by saying that they work at the mercy of the Ministry of Textiles and it is a 100% funded operation by the Government of India. But the Government of India had established the Central Silk Board to promote the silk industry. All the work done by the Central Silk Board from the highest officer down to the lowest peon is in furtherance of this scheme only. All the casual labourers also do their work in furtherance of this intention of the Union Government in its Textile Ministry. Therefore there is no separate fundamental responsibility among different classes of workmen from the very high to the lower most employees. All work in accordance*

with that intention of the Union Government which is proclaimed by the statute itself.

15. *They would say that the matter relating to enhancement of age till 60 years is also the subject matter of a Writ Petition filed by them before the Hon'ble High Court challenging the award passed by the Central Industrial Tribunal. They would thus say that this Tribunal should not intervene. But then, as is clear from the interim order passed by the Hon'ble High Court at that point of time in 2014, the matter in issue was for the implementation of a letter which unilaterally raised the age up to 58 but not up to 60. But in the interregnum if they had to be retired and sent out fundamental loss will be caused to the employees. Therefore it was stipulated whether the Board will be led to accept the determination of the Hon'ble High Court and grant such appropriate compensation if the Hon'ble High Court deems it fit to uphold the Labour Tribunal's order. The answer even though negative was not conclusive.*

16. *Therefore going by the Section 14 and 15 of the Administrative Tribunals Act, this is a matter coming within the ambit of this Tribunal.*

17. *The Board would say that there are nearly 177 workers who had already retired at the age of 58 years since the date of interim order of the Hon'ble High Court and if these applicants are allowed to continue till 60 it will create a precedence for other workers. But then there may not be any retrospective operation of a dismantlement of an alleged policy. Without any doubt, those workers who have not approached the Court in time at that point of time accepting the benefits cannot claim any pari materia equality as a promissory estoppel enveloped them. But these applicants have not accepted it and have sought to challenge a decision which they deem is against them. They are eligible to do so by operation of statute and the claim of equivalency with all other government servants in government service.*

18. *We do not need to go into the facts of the case much more other than holding that in fact it is submitted by both the parties that the matter is engaging the attention of the Union Government at the highest level. The Board itself had recommended that the age of the workers to be enhanced to 60 years. But then apparently there is some confusion within the Ministry which had led the matter being relegated to the backburner till now even though it has been engaging the attention of the Government for the past at least 15 years. Since the government itself had sent a reference to the Industrial Tribunal in 2007 it is implicit that the Government is also inclined to settle this matter. But then applicant points out that internecine issues between the Board and the Ministry had lead to a sorry situation.*

19. *Therefore we hold that:*

- 1) *There cannot be inequality in employment prospects within government.*
- 2) *Applicants and others like them are government employees and entitled to prospective terminal benefits including the age of 60 years as superannuation age as is fixed by the Fundamental Rules to this effect.*
- 3) *As a consequence all these employees will retire at the age of 60 but then, answering the question raised by the Board, it is stipulated that others who may have taken benefits and retired before this at the age of 58 cannot claim a retrospective acceptance as their case is covered by promissory estoppel.*

20. *The OAs are allowed as above. No order as to costs.*

Sd/-
(C V SANKAR)
MEMBER (A)

Sd/-
(DR.K.B.SURESH)
MEMBER (J)

2. Therefore, since these cases are also similar, these OAs are also allowed to the extent stated above. No order as to costs.

(C V SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00172/2020

Annexure A1 : Copy of the memorandum dated 12.07.1988

Annexure A2 : Copy of the memorandum dated 21.08.1998

Annexure A3 : Copy of the certificate issued by Respondent No. 2 to the applicant

Annexure A4 : Copy of the pay fixation letter issued by Respondent No. 2 to the applicant

Annexure A5 : Copy of the wageslip of the applicant for the month of January, 2020

Annexure A6 : Copy of the aadhar card of the applicant

Annexure A7 : Copy of the “List of Labourers Unit Wise Retiring from Board between 01.01.2018 to 30.06.2018.”

Annexure A8 : Copy of the interim order dated 20.04.2018 in OA No. 299/2018

Annexure A9 : Copy of the Award dated 01.04.2013 passed by the CGIT in CR No. 151/2007

Annexures referred to by the applicant in OA No. 170/00173/2020

Annexure A1 : Copy of the office order dated 04.06.2019

Annexure A2 : Copy of the wage slip of the applicant for the month of January, 2020

Annexure A3 : Copy of the aadhar card of the applicant

Annexure A4 : Copy of the “List of Labourers Unit Wise Retiring from Board between 01.01.2018 to 30.06.2018.”

Annexure A6 : Copy of the interim order dated 20.04.2018 in OA No. 299/2018

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