

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

(b)

O.A. No. 1494/91
~~Ex. No.~~

199

DATE OF DECISION 30.7.1991.

Mrs. Komalavalli Madhavan & Ors. Petitioner
Shri Lalit Kumar Gupta, Advocate for the Petitioner(s)
Versus
Union of India & Others Respondent
Shri P.H. Ramchandani, Senior Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. B.S. Sekhon, Vice-Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *x*
4. Whether it needs to be circulated to other Benches of the Tribunal? *x*

I.K. Rasgotra
(I.K. Rasgotra)
Member (A)
30.7.91.

B.S. Sekhon
(B.S. Sekhon)
Vice Chairman
30.7.91.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No.1494/91

DATE OF DECISION: 30.7.1991.

MRS. KOMALAVALLI MADHAVAN & ORS.

APPLICANTS

versus

UNION OF INDIA & ORS.

RESPONDENTS

CORAM:

THE HON'BLE MR. B.S. SEKHON, VICE-CHAIRMAN (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANTS

SH. LALIT KUMAR GUPTA,
COUNSEL

FOR THE RESPONDENTS

SH. P.H. RAMCHANDANI,
SENIOR COUNSEL

(JUDGEMENT OF THE BENCH DELIVERED BY

HON'BLE SHRI I.K. RASGOTRA, MEMBER(A)

Mrs. Komalavalli Madhavan, Mrs. Valsamma B. Nair and Mrs. V.R. Rajalakshmy, the applicants have jointly filed this application under Section 19 of the Administrative Tribunals Act, 1985 aggrieved by Memorandum No. A-11011/1/91-NCRL (Admn) dated 27th June, 1991 passed by Deputy Secretary, Government of India, Ministry of Labour, National Commission on Rural Labour (NCRL for short), New Delhi. In accordance with the said impugned order the applicants have been informed that the NCRL set up w.e.f. 11.8.1987 is likely to be wound up by the end of July, 1991 and consequently the services of the applicants who are Stenographers Grade 'D' and who are employed with the Commission on adhoc basis will not be required after 31.7.1991.

Briefly the facts of the case are that prior to the employment in NCRL, Applicant No.1 and 2 were working as Stenographer grade 'D' with the Wage Board

for Sugar Industry vide appointment orders dated 14.7.1986 and 28.5.1986 respectively. Applicant No.3 was appointed on 4th November, 1988 w.e.f. 6.11.1988 in the Wage Board for Working Journalists and Non-Journalist Newspaper Employees. Later the services of Applicants No. 1 and 2 were transferred to the Wage Board for Working Journalists and Non-journalist Newspaper Employees. They have been earning their increments and enjoyed usual benefits available to the Government servants like earned leave, maternity leave etc. They were relieved from the Wage Board for Working Journalists and Non-working Journalist Newspaper Employees on 31st May, 1989 with instructions to report for duty to the NCRL w.e.f. 1.6.1989.

The applicant No.3, however, was to be relieved of her duties on 20.6.1989 after the winding up work of the Wage Board is completed. They were appointed in the NCRL vide its order/37/89^{No.} issued on 23rd June, 1989 (Annexure A-7) which reads as under:

"....Consequent upon their selection for appointment to the posts of Stenographers Gr.'D' the following Stenographers Grade 'D' of the Office of the Wage Board for Working Journalists and Non-Journalist Newspaper Employees are appointed in the National Commission on Rural Labour as Stenographer Grade 'D' in the scale of pay of Rs. 1200-30-1560-EB-40-2040 purely on ad-hoc (emphasis supplied) basis with effect from the forenoon of the 1st June, 1989 to 10th August, 1990 or till the Commission is wound up whichever is earlier:-

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(1) Mrs. Komalavalli Madhavan

(2) Mrs. Valsamma B. Nair

....."

The applicants submit that LDCs and other employees appointed similarly have been absorbed in the ESIC and CPFC, World Bank Project (Director General of Employment and Training). However, the representation of the applicants seeking similar benefits has not been responded to by the respondents. By way of relief the applicants have prayed that the respondents be directed to regularise the services of the applicants with retrospective effect from the date of their respective appointments with further direction to pay the consequential benefits to them.

2. The petitioners also filed MP No.2062/91 praying for grant of ad interim orders so that their services are not terminated w.e.f. 31.7.1991.

3. When the OA and MP came up for hearing on 29.7.91, Shri P.H. Ramchandani, learned senior counsel for the respondents filed a copy of the Government of India's orders, which is reproduced below:

"Government of India

Ministry of Labour

Subject: Application filed by Mrs. Komalavalli Madhavan and others, steno Grade 'D'
- OA No.1494/91

I, B.L.SHARMA, S/o Shri A.N. SHARMA (Late) working as Under Secretary in the Ministry of Labour, do hereby submit and state as under:-
i) That the National Commission on Rural Labour was actually set up on 10.8.1987. The tenure of the Commission will be over on 31.7.1991. The Commission is thus winding up

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on that day. All the temporary posts in the Commission have been abolished from that date.

ii) As the petitioners in this case were also on ad-hoc basis, their services stand terminated as the posts have been abolished.

iii) The question of their absorption was taken up with the Deptt. of Personnel and Training, but since the petitioners were not eligible for inclusion in the select list, this could not be done. There is no provision on the central Sectt. Stenographers service Rules for inducting Stenographers in the Service except the examination conducted by Staff Selection Commission....."

The learned senior counsel submitted that the Government as a measure of policy has decided to wind up the Commission w.e.f. 31.7.1991. With the winding up of the NCRL all temporary posts would cease to exist from 31.7.1991 and consequently, the applicants cannot be retained in service. The learned counsel further submitted that the applicants were employed purely on adhoc basis against temporary posts and, therefore, have no legal claim for continuance after the NCRL itself is wound.

4. The learned counsel for the applicants Shri Lalit Kumar Gupta cited a catena of judgement to garner support for the reliefs prayed for by the applicants. These are listed in the margin below.

1985 (2) SCC 648 Inder PalYadav & Ors. v. UOI & Ors.
AIR 1987 SC 2342 Daily R.C. Labour, P&T Deptt. v. UOI
AIR 1987 SC 1153 Dakshin Rly. Employees Union, Trivandrum v. G.M., Southern Rly. ATR 1987 (2) CAT 307 K. Manohar Reddy & Anr. v. Secy, Rly. Board, New Delhi.
ATR 1986 (2) CAT 47 Satish Kumar & Ors. v. UPSC & Ors.
1986 ATC 563 CAT Delhi I.P. Girija v. UOI
1987 (4) SCC 646 Durgacharan Misra v. State of Orissa & Ors.
1987 (4) SCC 634 Bhagwan Dass & Ors. v. State of Haryana & Ors.
ATR 1988 (1) SC 77 Harpal Singh v. State of UP & Anr.

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We have considered the citations given by the learned counsel. We find that they relate either to the continuation/regularisation of casual labour or regularisation of temporary employees/confirmation of temporary status in the live and running Departments/Organisations.

The learned counsel also cited the decision of the Hon'ble. Supreme Court in the case of **Shri Ram Kishan & Ors. v. UOI in WP (Civil) No.853/1990**. This case too deals with the regularisation of the services of Assistant/Junior Engineers who were employed on daily wages by Ghaziabad Development Authority. The Ghaziabad Development Authority is a continuing and live organisation as against the NCRL which would cease to exist w.e.f. 31.7.1991.

On a specific query from the Bench if the learned counsel has any judicial pronouncement to support his case where despite winding up of the department/organisation the services of the adhoc employees were retained, the learned counsel answered in the negative. We are, therefore, of the view that the above citations given by the learned counsel are not germane to the issue before us. The decision to abolish the NCRL is a policy decision of the competent authority. When the organisation itself is wound up the question of retention of the subordinate staff against nonexisting posts does not arise. It is not for the Tribunal to go into the factor of policy leading to the winding up of the organisation which has achieved/completed its task or outlived its utility.*

5. We have heard the learned counsel of both the parties and considered the material on record. The Hon'ble Supreme Court in the case of **N.Ramanatha v.**

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State of Kerala AIR 1973 SC 2641 observed:

"14. The first question which falls for determination is whether the Government has a right to abolish a post in the service. The power to create or abolish a post is not related to the doctrine of pleasure. It is a matter of governmental policy. Every sovereign Government has this power in the interest and necessity of internal administration. The creation or abolition of post is dictated by policy decision, exigencies of circumstances and administrative necessity. The creation, the continuance and the abolition of post are all decided by the Government in the interest of administration and general public."

In view of the above and several other judgements listed in the margin below, we are of the view that the decision to wind up the NCRL, being a policy decision is not open to judicial review and consequently the Tribunal cannot grant the reliefs claimed by the applicants. Accordingly, MP seeking interim relief is disposed of as disallowed and the OA is dismissed with no order as to costs.


(I.K. RASGOTRA)

MEMBER(A)
30.7.91.


(B.S. SEKHON)

VICE CHAIRMAN
30.7.91.

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1. *AIR 1976 SC 1199 State of Haryana v. D.R. Sangar
 2. *AIR 1980 SC 1255 N.C. Singhal v. UOI
 3. *AIR 1980 SC 1107 K. Rajendra v. State of Tamil Nadu