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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO. 497/1991

DATE OF DECISION 17.5.91

SHRI THAKURDIN & 20 OTHERSAPPLICANTS

VS.

DELHI ADMINISTRATION & ORS.RESPONDENTS

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SHRI J.P. SHARMA, HON'BLE MEMBER (J)

SHRI B.N. DHOUNDIYAL, HON'BLE MEMBER (A)

FOR THE APPLICANTS

.....SHRI K.K. RAI

FOR THE RESPONDENTS

.....SHRI M.K. SHARMA

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not? *Je*

J U D G E M E N T

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicants are ~~employees~~, employed on daily wages basis with the respondent No.1 (Delhi Administration) at its Fruit and Vegetable Nursery, Hauz Rani, Mehrauli Block, New Delhi. The applicants have been working from as far back as 1983 and in some cases 1985, 86, 87 and 88. The grievance of the applicants is that

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although other workmen have been regularised by the respondents pursuant to the orders of the Hon'ble Supreme Court (Annexure-A of the application), the applicants have not been regularised and there is also no formal order of non-regularisation.

2. The applicants' case is that they have put in more than 240 days at a stretch and there has been no break whatsoever in their services, their continuous service entitles them to regularisation, also in view of the judgement of the Hon'ble Supreme Court (Annexure-A) passed in Legal Service Clinic for Women and Children and Others Vs. Delhi Administration and Others-C.W. No. 367/1986. The Hon'ble Supreme Court in the judgement dated 27th October, 1986 regularised the services of those workmen from their original entry into service. The order of the Hon'ble Supreme Court is reproduced below :-

"In view of the judgement of this Court in H.D. Singh Vs. Reserve Bank of India & Others, the services of the petitioners will be regularised as from the date of their original entry into service. This order will be confined to those persons who were not age barred on the date of their entry into service.

The writ petition is disposed of accordingly."

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3. It is contended by the applicants that they are doing the same nature of work of looking after farming as being done by regular employees. The applicants are being denied all the benefits, namely, leave salary, H.R.A., D.A., bonus and other allowances which are being available to other workmen.

4. The applicants submitted the representation (Annexure-B) on 7.7.1989, but to no effect, hence this application. The respondents filed the reply. In the reply it is stated that the Hon'ble Supreme Court in the case of Shri Niader & Another Vs. Delhi Administration & others, directed the respondents, Delhi Administration to prepare a scheme for absorbing the casual labourers who have worked for one year or more in the Soil Conservation Department as regular employees within six months from today to absorb all such casual labourers who are found fit for being regularised under the schemes as regular employees. Until they are so absorbed, the Delhi Administration shall pay w.e.f. 1.10.1988 to each of casual labourers working in the Soil Conservation Department, the salary or

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wages at the rate equivalent to the minimum salary paid to a regular employee in a comparable post in the Soil Conservation Department. It is stated that a scheme for the regularisation of workers is under way and the same will be implemented as and when prepared and approved. The respondent admitted all the applicants ~~who~~ have put in more than 240 days of service. It is further stated that three of the applicants at Serial No.14, 19 and 21 respectively S/Shri Ram Naresh, Harish Singh and Bharat Singh were regularised in pursuance to the order of the Hon'ble Supreme Court in C.W. No.367/1986. It is further stated that the applicants are being paid the wages ^{on par with the} ~~which are being paid~~ to regular employees including H.R.A., bonus and other allowances etc. However, the respondents stated that the relief sought in the application is meaningless and lacks merits in law in view of the fact that the respondents are already ~~underway~~ ⁱⁿ preparing a scheme for regularisation of the casual labourers as per the direction of the Hon'ble Supreme Court in C.W. 367/1986 and the services of the casual labourer will be regularised accordingly.

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5. We heard the learned counsel of the parties at length and both the learned counsel agree that the application be disposed of at the admission stage. We, therefore, admitted the application and heard the matter on merits.

6. The only grievance of the applicants is that in spite of the judgement of the Hon'ble Supreme Court referred to above where the similarly situated other workmen have filed a writ petition and pursuant to the aforesaid order of the Hon'ble Supreme Court, they have been regularised, it is unjust that the cases of the applicants be deferred on the pretext of a contemplated scheme alleged to be going to be formulated and implemented after approval of the competent authority. In fact the applicants are entitled for the benefit of the judgement of the Hon'ble Supreme Court which is passed in favour of similarly situated employees. Further in the aforesaid judgement of the Hon'ble Supreme Court, there is a reference of the judgement of H.D. Singh Vs. Reserve Bank of India and Others reported in AIR 1986 SC Page-132 wherein the workmen were allowed regularisation who had

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already put in 240 days of service without break.

It is evident that by virtue of this judgement, the respondents are bound to confer full rights of permanency on all the applicants named in the application

excepting those who have already been given the benefit at Serial No.14, 16 and 21 of the application.

Further, the respondents are bound to pay wages and allowances etc. to them at par with other Class-IV employees of the administration. Further, the aforesaid judgement enjoins the respondents that no one has been paid less than other permanent employees working under the administration in the same category.

The reply filed by the respondents in fact does not raise any controversy on any of the issues raised in the application. In fact, the respondents have admitted the fact that the applicants are to be regularised, but as argued by the learned counsel for the respondents, they have to wait till a scheme is formulated and is approved by competent authority for its implementation. This by itself is causing unjust treatment to the applicants because those who are similarly situated, have already been regularised.

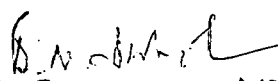
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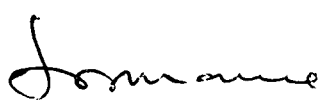
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The judgement of the Hon'ble Supreme Court in C.W. No.367/1986 was given on October 27, 1986. ^{and}

This judgement clearly lays down that those who have worked for 240 days, have to be regularised and paid on the same basis as regular employees are being paid in the same category.

7. After considering the whole matter, we are of the opinion that the application be allowed and the respondents are directed to regularise the ^{services of the} applicants, ^{ex}cepting those who have already been regularised within a period of two months from the date of the receipt of this order. In the circumstances of the case, the parties shall bear their own costs.


(B.N. DHOUNDIYAL) 17/5/91
MEMBER (A)


(J.P. SHARMA) 17.5.91
MEMBER (J)