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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

Date of decision:

4.6.93

OA No.1260/92

Sh.Pradeep Kumar & ors. ... Applicants
vs.

Union of India through
Secretary,
Ministry of Health and
Family Welfare
& ors. ... Respondents

CORAM: THE HON'BLE SH.I.K.RASGOTRA, MEMBER(A)
THE HON'BLE SH.J.P.SHARMA, MEMBER(J)

For the Applicants ... Sh.B.B.Raval, Counsel.

For the Respondents ... None

JUDGEMENT

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

The applicants in this OA at one time or the other were engaged as daily wagers and were appointed from different dates at the Central Research Institute, Kasauli. In due course of time some of them got regularised and were posted against Class-IV posts of Peon, Khalasi, Packer and Chowkidar etc. The dates when these persons were posted on Class-IV posts on regular basis are indicated in the title of the application against each of the applicants. The grievance of the applicants is that when they were initially inducted as Daily wagers, they were not paid the wages/ emoluments which were being paid to those employees who were similarly situated but on regular posts and were discharging identical duties which were being performed by the Class-IV employees appointed on regular basis. The applicants were only paid the minimum wages according to the instructions in vogue at that time.

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The applicants claim the relief that the respondents be directed to make payment to the applicants for the difference of wages paid to their counterparts as daily rated workers and available to permanent Govt. servants on the same post right from the dates of their employment till date with 18% interest. The cost of the application has also been claimed.

2. The respondents have contested the OA and stated in the counter-affidavit that ^{while} /the applicants were working as daily wagers they were paid remuneration at the rates in vogue at that time on the basis of the instructions issued by the Department of Personnel and Training. The applicants have no case. Further, it is stated that with effect from 7.6.88, the daily wage employees have been remunerated as per Office Memorandum No.49019/7/87-Estt(C) dated 30.5.1989 and as per orders the said OM has come into force with effect from 7.6.88. The representation of the applicants was considered in consultation with the Department of Personnel and Training and in pursuance of the OM of 30.5.89 which was issued in pursuance of the judgement of the Hon'ble Supreme Court in the case of SURINDER SINGH & ORS.VS.ENGINEER IN CHIEF,C.P.W.D. & ORS. decided 17.1.86(1986 ATR Vol.I 76). They are not entitled to any difference of wages prior to 7.6.88. The case of the applicants is devoid of merit.

3. We have heard the learned counsel for applicants and have gone through the records of the case carefully. The contention of the learned conseil for the applicants is that since

similarly situated daily wage muster roll workers of C.P.W.D have been directed to be paid the same salary and allowances as are admissible to permanent regular Government servants in view of the above principle laid down by the Hon'ble Supreme Court, the applicants should also be paid at the same rate from the date of their initial appointments. The learned counsel for the applicants also places reliance on the case of ORDNANCE, CLOTHING FACTORY WORKERS UNION VS. SECRETARY, MINISTRY OF DEFENCE & ORS. (A.T.R.1990(1) CAT22) wherein it has been held that the principle settled by the judicial bodies should be applied by the employers themselves to all similarly placed employees. It is further argued that on the principle of equal pay for equal work the cases for payment of wages equivalent to that of permanent employees to the daily wagers should have been favourably considered by the respondents but instead they have turned down the request by the impugned order dated 21/24-6-91(R-1). The ratio laid down in the case of ORDNANCE CLOTHING FACTORY WORKERS UNION(Supra) is that in order to avoid multiplicity of proceedings, the employers themselves shall apply to all the employees the principles as settled finally by a judicial body. In this reported case, the workers Union have claimed the benefit of the decision of TA 911/86 decided by the Tribunal on 26.8.87 in which the Tribunal has decided that the piece rate workers should also be given new piece rates with effect from 16.10.81 when the scale of pay of regular workers was revised. The applicants do not draw any help from the aforesaid judgement. As regards the judgement in the case of Surinder Singh & ORs (Supra) that case

lays down that the Central Government like all organisations of the State is committed to the directive principles of the State Policy and Article 36 enshrines the provisions of equal pay for equal work. In RANDHIR SINGH VS.U.O.I.(1982 SCR 289) it has been held that it is vital and vigorous doctrine accepted throughout the world particularly by Socialist countries. In view of this, the petitioners Sh.Surinder Singh (supra) and all other daily rated employees were directed to be paid the same salary and allowances as are paid to regular and permanent employees with effect from the dates when they were respectively employed. In view of the above directions of the Supreme Court, the Ministry of Urban Development issued orders on 29.9.89 in implementing the aforesaid judgement and the difference of wages to daily rated workers employed in C.P.W.D. Delhi were ordered to be paid. Further, OM dated 5.3.90, the Ministry of Urban Development further issued a letter that all those workers who were working on daily rate on the date of the judgement of the first judgement i.e. 17.1.86, the arrears of difference of pay be paid. It was in view of these orders that the applicants had made a representation to the Director, Research Institute, Kasauli on 14.12.90. (Annexure A-3). The respondents i.e. Director General of Health Services in consultation with the Deptt.of Personnel and Training ordered that the daily rated workers shall be paid the same wages as are being paid to the regular employees but prior to 7.6.88 the daily wage employees have to be remunerated in accordance

with the instructions as existed on the subject.

The learned counsel, therefore, argued that the Union of India cannot differentiate in the employees working in its different organisations and the applicants who had one time worked at daily rated workers should have been also paid the same wages as paid to permanent Government servants from the date of their employment. This contention of the learned counsel for the applicants is faulty on two counts. Firstly, the judgement of Surinder Singh & anr. (supra) cannot be said to be of general application in all the organisations of the Union of India. The judgement of the Supreme Court has been fully complied with by the respondents with effect from 7.6.88 and the daily rated employees will be paid remuneration at the same rate as was being paid to the permanent employees of course discharging same type of duties as a measure of policy. Similar matter came before the Supreme Court in the case of UNION OF INDIA & ORS. VS. SECRETARY, MADRAS CIVIL AUDIT ACCOUNTS ASSOCIATION & ORS (ATR 1992(1) SC 589). In that case, the recommendations of the Fourth Central Pay Commission in respect of the members of the Audit Wing of the Indian Accounts Department were implemented with effect from 1.1.86. The respondents of the above case agitated the matter before the Madras Bench of the Tribunal and the relief was granted with effect from 1.1.86 to the members of the

Accounts wing also. The Union of India assailed the judgement before the Supreme Court and the Hon'ble Supreme Court reversed the judgement of the Tribunal and observed that the Office Memorandum implementing the recommendations of the Fourth Pay Commission in the case of Audit Wing with effect from 1.4.87 cannot be said to be arbitrary or violative of Articles 14 & 16 of the Constitution. In the present case, the applicants have approached the Tribunal when most of them have already been regularised in some Class-IV posts and also when they have already been granted remuneration equal to similarly placed permanent employees. In the circumstances, the question of granting them relief from a date when they were initially appointed does not arise. Secondly, the nature of the work discharged by them as daily rated workers whether it is at par with the permanent employees has not been specifically averred in the OA. It has been held in the case of DELHI VETERINARY ASSOCIATION VS.U.O.I (AIR 1984 SC 1221) by the Hon'ble Supreme Court as follows:-

" The question of discrimination cannot be decided in isolation. This court reiterated that in addition to the principle of 'equal pay for equal work' the pay structure of the employees of the Govt. should reflect many other social values.

In the case of RANDHIR SINGH VS.U.O.I (AIR 1982 SC 879), the Hon'ble Supreme Court held as under:-

" We concede that equation of posts and equation of pay are matters primarily for the Executive Government and expert bodies like Pay Commission and not for Courts....."

4. In view of the above facts and circumstances

, applicants cannot get the relief from the date of their initial appointment as daily rate workers. They have already been granted the relief with effect from 7.6.88 as stated by the respondents. The OA is, therefore, devoid of merit and is dismissed leaving the parties to bear their own costs.

J.P.Sharma
(J.P.SHARMA)

MEMBER(J) 4/6/93

I.K.Rasgotra
(I.K.RASGOTRA)

MEMBER(A) 4/6/93