

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 1818/92
T.A. No.

199

(H)

DATE OF DECISION 28.11.1996Sh. Lal Baboo Thakur & Ors. PetitionerSh. B.S. Mainee Advocate for the Petitioner(s)

Versus

U. O. I. & Ors. RespondentSh. P.S. Mahendru Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice Chettur Sankaran Nair, Chairman

The Hon'ble Mr. S. P. Biswas, Member (A)

1. To be referred to the Reporter

(Justice C. Sankaran Nair)
Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.
OA-1818/92
MA-2009/92

12

HON'BLE MR. JUSTICE CHETTUR SANKARAN NAIR, CHAIRMAN
HON'BLE MR. S.P. BISWAS, MEMBER(A)

New Delhi this the 28th day of November, 1996.

1. Sh. Lal Baboo Thakur,
S/o Sh. Nandlal Thakur,
C/o Sh. B.S. Mainee,
advocate.
2. Sh. Rajeshwar Rai,
S/o Sh. Shree Parma Rai.
3. Sh. Gouri Shanker Rai,
S/o Sh. Ram Brich Rai.
4. Sh. Brij Mohan Singh,
S/o Sh. Bal Ram Singh.
5. Sh. Rajendra Rai,
S/o Sh. Haheshwar Prasad Rai.
6. Sh. Trilokee Nath Singh,
S/o Sh. Yogandra Singh.
7. Sh. Rama Shanker,
S/o Sh. Anantha Rai.
8. Sh. Sadiqu Ali Siddiqui,
S/o Sh. Gawad Ali Siddiqui.
9. Sh. Avijeet Kumar Roy,
S/o Sh. Kanti Mohan Roy.
10. Sh. Uma Kant,
S/o Sh. Sanjoo.
11. Sh. Dhirendra Kumar,
S/o Sh. Jagdish Prasad Sharma.
12. Sh. Dharam Nath Rai,
S/o Sh. Nandhak Rai.
13. Sh. Manan Singh,
S/o Sh. Kamla Singh.
14. Sh. Krishna Kumar Prasad,
S/o Sh. Dharichan.
15. Sh. Avay Kumar Singh,
S/o Sh. Devendra Nath Singh.
16. Sh. Rajkishore Pandey,
S/o Ram Ajha Pandey.
17. Sh. Dharam Nath Prasad Das,
S/o Sh. Ram Binay Das.
18. Sh. Prayag Nath Gupta,
S/o Sh. C. Saha.

19. Sh. Ram Bali Rai,
S/o Sh. Dhupan Rai.

20. Sh. Sheo Chandra Rai,
S/o Sh. Ram Jeewan Rai.

21. Sh. Harendra Prasad,
S/o Sh. Ram Adhish Prasad.

22. Sh. Dhirender Roy,
S/o Sh. Sarva Ray.

.... Applicants

(through Shri B.S. Mainee, advocate)

versus

1. Union of India through
the Secretary,
Ministry of Railways,
Rail Bhawan,
New Delhi.

2. The General Manager,
North Eastern Railway,
Gorakhpur.

3. The Divisional Railway Manager,
North Eastern Railway,
Sonpur.

.... Respondents

(through Shri P.S. Mahendru, advocate)

The application having been heard on 28.11.1996 the
Tribunal on the same day delivered the following:

ORDER

Chettur Sankaran Nair(J), Chairman

Applicants seek a direction to respondents to regularise their services. It is stated that after long service in the Civil Engineering Department, they were informed that their case for regularisation will be considered in the Commercial Department. Learned counsel for applicants submitted that his clients have a right to be considered for regularisation in the Civil Engineering Department. Counsel also highlighted the travail of casual labourers like applicants, who lead an uncertain life from day-to-day with the horizons of hope receding farther and farther. The human factor moves us, but the legal grounds do not.

24

We are unable to see any right for regularisation. Regularisation is not a matter of right unless there is a Scheme in that behalf (Mukesh Bhai Chhotabhai Patel Vs. Joint Agriculture and Marketing Advisor, Government of India (AIR 1995 SC 413)). The further argument that others have been regularised in the Civil Engineering Department, and that Article 14 and the guarantee of equality have been violated also, does not appeal to us. A right arises by conferment, not by comparison. Notions of equity, do not accord with the guarantee of equity. Every dissimilarity is not discrimination in law, and every anomaly is not arbitrariness in constitutional parlance. Article 14 guarantees equality before 'the law' and equal protection of 'the laws'. Where there is no law, there is no question of equality under Article 14. May be, equality is denied, but equality before the law is not denied in such circumstances.

That, however is not the end of the matter. A long line decisions of the apex court has added colour and content to Constitutional perceptions. The apex court has orchestrated, a social philosophy and this in turn has brought about, many ameliorative schemes to improve the lot of the under privileged. It is not for us to issue directions to frame Schemes, as it will be impermissible for a Court or Tribunal or arrogate to itself the powers of the apex court under Article 142 of the Constitution. We would, however, direct the Chairman of Railway Board, the highest functionary in

15

16

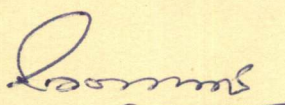
the Indian Railways, to examine the plight of casual labourers who are shifted from position to position from department to department and perhaps from uncertainty to greater uncertainty. The Chairman Railway Board, first respondent, will consider:-

- (a) whether regularisation of casual labourers should be confined to one wing alone or whether a broader pererspective is called for;
- (b) whether the case of regularisation of a casual employee should be considered with reference to the unit where he has put in the longest service.

We hope that first respondent will examine these issues as sympathetically as possible and take appropriate measures. In the meanwhile, respondents 2 & 3 will consider the case of applicants for regularisation in terms of the existing orders and rules. It is expected that decisions will be taken by respondents in four months from today.

With the aforesaid directions, we dispose of the application. No costs.

Dated, the 28th November, 1996.



(S.P. Biswas)
Member(A)

/vv/



(Chettur Sankaran Nair(J))
Chairman