

In the Central Administrative Tribunal
Principal Bench: New Delhi

RA No.64/93 in
OA 2943/92
MP 676/93
MP 677/93

Date of Order: 4.3.93.

Union of India through the
General Manager, Northern
Railway, Baroda House, New
Delhi & Another ...Petitioners

Versus

Shri Sudhir Mandal & Others ...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioners Shri H.K. Gangwani, Counsel.

For the respondents None

O R D E R

Heard the learned counsel for the petitioners in RA-64/93. The R.A. has been filed by the respondents in O.A. 2943/92 which was decided on 24.12.1992 alongwith fifty nine other O.As through the common judgement as similar issues of law and of fact were raised therein. This R.A. came up before us as the learned counsel for the petitioners had made a speical mention before the Hon'ble Chairman regarding the urgency of the matter, as the bank accounts of the petitioners were likely to be attached. The learned counsel for the petitioners prayed that the operation of the judgement dated 24.12.1992 may be stayed and the matter be heard after giving notice to the respondents in the R.A. Before deciding to notice the respondents in R.A. we asked the learned counsel for the petitioners (respondents in O.A.) to establish the case justifying issue of notice and the prayer for

seeking interim stay. Shri Gangwani, in the course of his submission made the following points. There is an error apparent on the face of the record inasmuch as the petitioners were not entitled to the payment of H.R.A., C.C.A. etc. and that the chart which was filed before the Labour Court was not filed by them of their own volition. The said chart was prepared and filed in accordance with the direction of the Labour Court under protest. The learned counsel further submitted that the petitioners were not entitled to the regular scale of pay nor were they entitled to the payment of H.R.A. and C.C.A. The Tribunal, therefore, committed an error by assuming that the payments on these accounts were due to the petitioners. The next point urged by the learned counsel is that the Labour Court had no jurisdiction in the matter until and unless the State Government refers the matter after the appropriate conciliation proceedings had taken place. In this case the conciliation proceedings had not been taken up and no reference was made by the State Government under Section 10 of the Industrial Disputes Act, 1947 to the Labour Court.

2. As far as the first contention of the learned counsel is concerned, we pointed out to him that in accordance with the Railway Board's letter No.E(NG)II/78/CL/12 dated 16.10.1980 apart from the normal entitlements which are admissible to temporary

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Railway servants, as laid down in Chapter XXIII of the Indian Railway Establishment Manual (IREM for short) (1968 Edition) even the other benefits like contribution to SRPF, counting of half service rendered as casual labourer for counting as qualifying service for pensionary benefits etc. on regularisation have been conferred on the casual labourers. The casual labours have always been entitled to the payment of salary and allowances in accordance with Chapter XXIII of the IREM, once the temporary status is conferred on them. The fact that temporary status was not conferred on the petitioners till 1977 does not deprive them of their right to receive the payment on regular scale of pay, merely because the petitioners failed to confer the temporary status when it fell due. According to the statutory rules framed by the petitioners casual labourers are eligible and entitled to temporary status after they have rendered continuous service of 120/180 days, depending on their working on the open lines or on temporary projects as the case may be. The material point, therefore, is that the casual labours concerned should have been conferred the temporary status after they had completed continuous service of 120/180 days in accordance with the statutory rules. That this was not done by the petitioners is an issue which is irrelevant. It is from the date the temporary status was due to be conferred that they become entitled to the payment of salary and allowances treating them as

having been placed in the regular scale of pay. Admittedly, the pay has to be calculated at the minimum of the relevant scale of pay. The amount of Rs.6,514/- determined by Labour Court as payable to the respondents related to the period from the date when they should have been conferred the temporary status and upto the date they were actually conferred that status. This position was also confirmed by the learned counsel for the respondents in the original O.A. when the case had come up for final hearing to our specific query in that regard.

3. As far as the second point about jurisdiction is concerned, the petitioners should have agitated this issue before the Labour Court. This cannot be a ground for reviewing our judgement of 24.12.1992. The learned counsel submitted that although this point was raised, the Labour Court did not give any finding in its order. In our opinion, no Court is required to discuss each and every point which may be marshalled by the petitioner/respondents in favour of their case. If no reference or finding has been given on a certain point, the obvious inference is that the said point has not found favour with the Court.

4. Besides the above, the scope of the Review Application lies in a very narrow compass. The scope of the review is limited to:-

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- a) an error apparent on the face of record;
- b) discovery of new and important material which was not available to the petitioners after exercise of due diligence; and
- c) for any other sufficient reason.

5. We find that none of these conditions are fulfilled in this case nor there is any merit in the arguments nor adduced before us. In the above facts and circumstances of the case, we consider it proper to reject the R.A. at the admission stage itself. Ordered accordingly.

Consequently MPs also stand disposed of.

B.S. Hegde
(B.S. Hegde)

Member (J)

san.

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

Member (A)