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In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. OA-692/92

Date: 15.1.1993.

Mr. Francis Xavier Applicants
and Another

Versus

Union of India through Respondent
Secretary, Ministry of
Communications

For the Applicants Shri R.K. Kamal, Advocate

For the Respondent Shri M.L. Verma, Advocate

CORAM: Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to
see the Judgement? *Yes*

2. To be referred to the Reporter or not? *No*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

We have gone through the records of the case and
have heard the learned counsel for both the parties.
Applicant No.1 joined the Satellite Communication Project,
Naraina, Delhi, as a casual labourer on daily-wage basis in 1984.
Applicant No.2 was also similarly engaged in 1984. Applicant
No.1 has stated that immediately on joining, he was assigned
the task of Office Assistant which is a Group 'C' post. He
continued to perform the duties of an Office Assistant, the
minimum grade of which post is Rs.975/-. He has produced
some office records to substantiate his claim that he has
worked as Office Assistant. Similarly, applicant No.2 has

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been continuously utilised as Typist, but the pay-scale of Typist has not been given to her.

2. The applicants were granted the status of temporary Mazdoors w.e.f. 1.10.1990 and they are being given the basic salary of Rs.750/- per month which is the minimum basic salary of Group 'D' category. Prior to 1.10.1990, they were granted only daily wages.

3. The applicants have been denied bonus and other benefits which are enjoyed by a regular employee. The applicant No.2 is not also given the benefit of maternity leave. They have claimed that having rendered nearly eight years of service, they should be regularised in Group 'C' posts in which they have been working all along. They have also claimed the pay and other service benefits of a Group 'C' employee.

4. The respondents have stated in their counter-affidavit that the applicants are only daily-rated casual labourers. They were not selected through the Staff Selection Commission for doing the job of Group 'C' posts. They have, however, stated that the applicants were given other assignments, as claimed by them occasionally. In our opinion, the applicants who have performed duties of Office Assistant/Typist, should not be denied the minimum of the pay of the posts of Office Assistant/Typist. The fact that they have not been regularly appointed to these posts, would not


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justify non-payment of regular pay-scale to them who have worked for several years. The decision of the Supreme Court in U.P. Income-Tax Department Contingent Paid Staff Welfare Association Vs. Union of India, 1988 (1) ATLT SC 1, is directly in point. In that case, the contingent paid staff of the Income Tax Department who had worked for a number of years, were being paid wages as daily-rated labourers lower than the salary and allowances which Class IV employees of the Department had been drawing. The Supreme Court allowed the writ petition and directed the respondents to pay wages to those who were doing the work of Class IV employees at the rates equivalent to the minimum pay in the pay-scale of the regularly employed workers in the corresponding cadres, without any increments w.e.f. 1.12.1986. The Supreme Court referred to its earlier decision in Daily-rated Casual Labour employed under P & T Department Vs. Union of India and Others, J.T. 1987 (4) S.C. 164.

5. Following the ratio in the aforesaid judgement of the Supreme Court, this Tribunal held in its judgement dated 25.5.1990 in OA-1707/88 (Shri Kanta Prasad & Others Vs. Union of India through Chairman, Central Board of Direct Taxes, New Delhi) that the applicants who were working as Typists/Electricians, were entitled to be paid the minimum

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of the pay-scale of Typist/Electrician of regularly employed staff of the said category. Similarly, in the judgement dated 4.3.1992 in OA-1499/91 (Shri Nihal Singh Vs. Union of India through the Chairman, Central Board of Direct Taxes and Others) the respondents were directed to pay to the applicant who had worked as English Typist since February, 1988, the minimum of the pay-scale of Typist and that he should be considered for regularisation in accordance with the relevant recruitment rules, if vacancies were available. For the purpose of regularisation, the respondents were also directed to relax the age limit to the extent of the service already rendered by the applicant as Typist.

6. After hearing both sides, we dispose of the present application with a direction to the respondents to pay to the applicants in the present application the minimum of the pay-scale of Office Assistant/Typist of regularly employed staff of the said category. In the facts and circumstances of the case, we do not direct payment of back wages to them. The applicants should be considered for regularisation of their services in accordance with the relevant recruitment rules, if vacancies are available. For the purpose of regularisation, the respondents shall relax the age-limit to the extent of the service already rendered by them in their present posts. 

7. We further direct that the applicants should be given all the benefits which a casual labourer who has acquired a temporary status, would be entitled to, in accordance with the instructions issued by the respondents. We also direct that the applicant No.2 should ^Q~~also~~ be given maternity benefits as per the provisions of the Maternity Benefit Act, 1961.
8. The application is disposed of accordingly. There will be no order as to costs.

B. N. Dhoundiyal
(B.N. Dhoundiyal) 15/11/93
Administrative Member

amr
15/11/93
(P.K. Kartha)
Vice-Chairman(Judl.)