

Central Administrative Tribunal, Allahabad.

Registration O.A.No. 780 of 1987

Central Command National MES
Employees Union
& others

Applicants.

Vs.

Union of India and others

..

Respondents.

Connected with

1. Registration O.A.No. 430 198 7

Imtiaz Ahmad

...

Applicant

Vs.

Union of India and others

...

Respondents.

2. Registration O.A.No. 422 198 7

Bindeshwari Prasad

...

Applicant

Vs.

Union of India and others

...

Respondents.

3. Registration O.A.No. 768 198 6

Mohd.Faiyaz

...

Applicant

Vs.

Union of India and others

...

Respondents.

4. Registration O.A.No. 628 1989

Ganesh Prasad.

...

Applicant

Vs.

Union of India and others

...

Respondents.

Hon.Mr.Justice K.Nath, VC
Hon.K.J.Raman, AM

Turn over for judgment and orders.

Hon'ble Justice K. Nath, V.C.
Hon'ble K.J. Raman, A.M.

These applications, filed under Section 19 of the Administrative Tribunals Act, 1985, relate to Casual Labours and have been connected because they involve common questions of law. O.A. No. 780 of 1987 is the leading case.

2. The applicants were employed as Casual Labour during different periods in the Department of respondent no.3, Commander Works Engineer (P), Lucknow and after they had worked for different periods they were ceased on different dates in the year 1985. The particulars of their period of work is given in the Annexures to the petitions; in some of the matters the respondents have also disputed the periods indicated in the Annexures. It is not necessary to adjudicate upon the actual period of their working because the case has been confined by the applicants on 90 days period of working which admittedly has been put in by all the applicants except one Rajesh Kumar, son of Sri Badlu.

3. The relief claimed in the case is to direct the respondents to regularise the applicants' services on the basis of their seniority as Casual workmen and to restrain respondent no.3 from making any fresh recruitment from the Employment Exchange.

4. The basis/claim consists of the standing orders contained in Annexure '42'. The rule of regularisation is contained in para 15. Clause (i) of para 15 says that a casual workman who has completed six months of continuous service in the same establishment or under the same employers within the meaning of sub-clause (b) of Clause (2) of Section 25-B of the Industrial Disputes Act, 1947 shall be brought on to the regular strength of the establishment. The objection of the respondents is that the applicants have not put in six months' continuous service. The charts, which have been submitted by the applicant themselves indicate that the periods of employment were broken periods. As the matters stand, the applicants are not entitled to be regularised under para 15(i) of the Standing Orders.

5. It is clause (ii) of para 15 under which the relief is being sought presently. Clause (ii) says that a casual workman who has completed 90 days of continuous service in the same establishment or under the same employer shall be given preference for such casual employment in that establishment under the same employer ~~shall be given preference for such casual employment in~~ over a workman who has not completed his period of 90 days. Here also the objection of the respondents is that the applicants did not complete 90 days of continuous service. Moreover, this clause does not deal with regularisation of casual workmen; it only provides for preference for casual employment to persons who have completed 90 days of continuous service over those who had not completed the period of 90 days. It is (the only) question of preference in casual employment and not a legal right of regularisation.

6. The details of service of the applicants indicate that except a few persons, who have put in as low as 105 or 121 days of work, a large number of them have put in more than six months of broken periods. The maximum period ~~of~~ ^{one of them} is 789 days. There are others also whose total period of working in broken periods is between 400 and 500 days.

7. The learned counsel for the applicant has referred to the decision of the Hon'ble Supreme Court in the case of General Secretary, Bihar State Road Transport Corporation, Patna v. Presidenting Officer, Industrial Tribunal, Patna & others (1988 (1) ATJ 408) to show that the Hon'ble Supreme Court had given directions to the Corporation there to prepare a reasonable scheme for regularisation of casual labourers who had been working for more than one year. That direction was obviously in the exercise of special and exclusive powers of the Hon'ble Supreme Court ^{under} ~~in~~ the Constitution of India and it will not be possible for this Tribunal to direct a scheme to be framed, but there can be no doubt that the Hon'ble Supreme Court and following them the Hon'ble High Courts, have

viewed the matters of Labour, including Casual Labour, as social welfare measures. After all these peoples have worked with the Department and the Department would undoubtedly ^{be} needing labourers from time to time. It would be in keeping with the philosophy of welfare state and social justice to give an opportunity to these persons to work if there are no positive legal hurdles or reasons of ~~any~~ impropriety ~~or unsuitability~~ in a particular case. We, therefore, dispose of these petitions with the direction that the respondents may consider giving employment to the applicants as Casual Labour in preference to those who may be intended to be recruited in immediate future and to take a sympathetic view of the situation applicable to the applicants individually consistent, of course, with the particular requirements of the respondents in discharge of the functions of their department. There will be no order as to costs.

(Signature)

MEMBER (A).

(Signature)

VICE-CHAIRMAN.

Dated: January 23, 1990.

PG.