

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH
~~NEW DELHI~~

O.A. No. 644 OF 1987
~~XXXXXX~~

DATE OF DECISION 26-04-1990.

Mr. Mayavan Alagamuthu, & 113, others Petitioner

Mr. Y. V. Shah Advocate for the Petitioner(s)

Versus

Union of India and others Respondent

Mr. N. S. Shevde. Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N. Dharmadan : Judicial Member

The Hon'ble Mr. M. M. Singh : Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

1. Mayavan Alagamuthu, P.W. Mate,
2. Maruthamuthu Marimuthu, G.Man
3. Veluswamy Chinnaswamy
4. Periyaswamy Kesavan,
5. Thangaraj Ksliyan
6. Muthuswamy Subburayan
7. Elangovan Kesavan
8. Thangavel Chinnu
9. Nathan Mothayan
10. Saminathan Ambalathadi
11. Moganshingia Kanshingh
12. Athiya Hrisi
13. Vijaya Jaisingh
14. Kaliyan Sannasi
15. Venkidachalam Rengaswamy
16. Venugopal Thadikaran
17. Chitra Ema
18. Sathori Hrisingh
19. Amartham Perumal
20. Kolanchi Nadukhalai
21. Perumai Khirusnan
22. Saroja Thangavel
23. Khirusnaveni Anumandan
24. Anjalai Ayyaswamy
25. Bepy Mayawan
26. Chinnapillai Chinnapayyan
27. Periyamma Maruthai
28. Sama Ema
29. Vasani Hrthan
30. Sivaperuman Velu
31. Lalji Hurpal
32. Swansing Lamsi
33. Limphu Thanna
34. Mina Narsing
35. Emma Visal Plamali
36. Gaju Vala
37. Manivel Arumugam, Mate,
38. Mayavan Muthiya
39. Kaliyaperumal Narayanan
40. Mallaperumal Arumugam
41. Sinnapan Saverimuthu
42. Chinnaswamy Amavasi
43. Mahalingam Arumugam
44. Thangvel Chinnapayan
45. Turuswamy Sevaperumal
46. Laxman Ramaswamy
47. Ramesh Siyaram
48. Muthiya Alagamuthu
49. Karuppan Mannagali
50. Veeramuthu Kaliaperumal
51. Addoni Manamuthu
52. Vellakani Sawyerimuthu
53. Periyathambi Sengemalai
54. Pirakarhan Santhian
55. Chinnaswamy Karuppan.

56. Natrajan Karuppan
57. Altimuthu Chinnaswamy
58. Laxmi Ayyaperumal
59. Vasantha Ayyaperumal
60. Gopal G.
61. Nadan Armugam, Mate,
62. Tangwel Armugam
63. Shrinivasan Armugam
64. Kanan Sadiyan
65. Mayawan Adimulam
66. Ramlingam Mallaperumal
67. Adimulam Murvan
68. Mani Pawade
69. Koopan Veeran
70. Tangwel Keshwan
71. Muniyan Motiyan
72. Erichamuthu Iyyakan
73. Ramaswamy Arunchallam
74. Yasodai Anadappan
75. Kannan M.
76. Arumugam Raipan
77. Nallu Kullam, Mate,
78. Ayyakusan Nathu
79. Chinnathampi Muthuswamy
80. Subburamaniyan Karuppan
81. Rangasamy Marimuthu
82. Gattimuthu Muthusamy
83. Arumugam Mottiyan
84. Jyoti Anand
85. Thangaraj Ponnusamy
86. Samuda Mothiya
87. Vaiyvapuri Challan
88. Mukkai Mayavan
89. Sampuranan Andappan
90. Amortham Muthaiyan
91. Anthonyama Schinnappan
92. Chinnappillai Karuppan
93. Anchalai Thangavel
94. Kulanchi Gonnodiyan
95. Ayyamma Savapathi
96. Kamala Rangasamy
97. Mangala Bumma
98. Vali Surthan
99. Pichaimuthu Santhanam
100. Ammasi Narayanan
101. Govindswamy Sandam, Mate,
102. Anchalai Rathanan
103. Rangaswamy Govindswamy
104. Punnuswamy Munian
105. Singaram Armugam
106. Kaniya Shivaperumal
107. Rajwel Subrayan
108. Gopal Rangaswamy
109. Annamali Nollasewi
110. Kashi Ramlingam
111. Veeramma Rangaswamy
112. Chinnapillai Motiyan
113. Buduma Sabhapati
114. Mayawan G.

Working under XEN (C) ADI.

...Petitioners

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1. Union of India,
through the General Manager,
Western Railway,
Churchgate,
BOMBAY - 20.
2. Chief Engineer (C).
Western Railway,
2nd Floor,
Station building,
AHMEDABAD - 2.

...Respondents.

Coram : Hon'ble Mr.N. Dharmadan : Judicial Member
Hon'ble Mr.M.M.Singh : Administrative Member

ORAL ORDER

Date : 26/04/1990

Per : Hon'ble Mr.N. Dharmadan : Judicial Member

Heard Mr.Y.V.Shah and Mr. N.S.Shevde the learned counsel for the applicant and the respondents respectively. 114, Casual employees who are working under the Railway in various divisions such as Rajkot, Bhavnagar, Baroda, have jointly approached this Tribunal with the following relief as stated at page 13.

Be pleased to direct the respondents that the applicants shall be made permanent and shall be given the Pay scale and all other benefits as are being given to permanent class IV workmen of the respondent Railway Administration from the date of their completion of 240 days of service.

According to the applicants they have been recruited between 10.4.1972, to 1979, and inspite of the long and continuous service as casual employees their services were not regularised. According to the applicants the respondents have exercised unfair labour practices and have engaged the employees on daily wage basis and exploited them during all ~~xxxx~~ these periods. They were deprived of their legal rights. They

have submitted that they are deprived of the following benefits :

- (1) Promotion (2) H.R.A. (3) Group Insurance Scheme,
- (4) Various types of leaves (5) Transfer allowance,
- (6) Joining time (7) P.F./Pensionary benefits,
- (8) Gratuity (9) Uniforms (10) Bonus (11) Pay Scale,
- (12) Increments etc.,

They have also submitted that they are been indiscriminated transferred from one division to another division and there is no security for their tenure. Their contention is that, inspite of various pronouncements of the Supreme Court and that of the Tribunals the Railway is not making any attempt for regularisation. Hence they are compeled to ~~th~~ approach this Tribunal.

The Railway has filed a detailed counter affidavit and denied various allegations. The matter was ^{heard} ^H at length. In fact the learned counsel for the Railway very fairly submitted at the time of the arguments that the applicants ^h ^{being} are ~~been~~ given admissible benefits under law apart from pensionary benefits, gratuity, bonus, ~~the~~ other pensionary benefits which are available only to the regular employees. However, we are not going in to all these details at this stage.

As indicated above after hearing the matter at the length we have felt that the respondents are not taking appropriate steps for regularisation of these employees who are admittedly casual employees working for more than two decades and they are entitled to service benefits in the light of ^{decisions of the} ~~the~~ Supreme Court in various cases Right from 1981 onwards. In the latest Karnataka case, the Supreme Court held the public authorities have a constitutional obligation to regularise all these casual workers who are allowed to work for years together. The Railway has a bounded ⁿ duty to take steps for giving security for these employees who are waiting in the queue for getting regularisation for unduly long period. We see no justification for the delay in taking appropriate steps for regularising these casual employees in accordance with the seniority when ever regular vacancies arise in the divisions in which they are working.

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When the case came up for hearing before us on 19.4.1980, after hearing the learned counsel appearing on both sides we directed the respondents' counsel to furnish the details regarding the regularisation and the period required within which the regularisation of these casual employees can be absorbed as regular workers of the Railway. Accordingly when today the case was taken up the learned counsel for the respondents submitted that out of the total petitioners three have been already regularised and one expired and the rest of them are entitled^{dh} to be regularised. Their services would be regularised in due course taking into consideration their seniority and as when vacancies arise^h that may arise in the future in the respective divisions in Railway. He submitted that for regularising all these casual employees the Railway required a period of 5 years.

Having considered the matter in the light of the averments the submissions of the counsels at the bar and the decisions of the Supreme Court we are satisfied that the applicants are entitled to all benefits which are available to a regular employee eligible under law till they are regularised in services. The respondents are also bound to pay them the salary and other benefits payable to the regular employees permissible under law to the employees as ~~the~~ indicated above.

Under the above circumstances in the interest of justice we dispose of this application with the following directions.

1. The respondents shall pay to the applicant all the benefits permissible in law in the light of the decisions of the Supreme Court as if they are regular employees, till they are regularly absorb in the service.
2. The respondents shall regularise the applicants absorb them as regular employees of the Railway within a period of three years from the date of the receipt of the copy^{city} of the Judgment, in accordance with the seniority

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of these applicants ^{in the} as and when regular vacancies arise in the respective divisions ^{in which they are working} in which the applicants are ~~now working~~. If the respondents are not able to regularise them within the period mentioned above, inspite of their ^{best} ~~above~~ efforts they are at ^{liberty} ~~freedom~~ to approach this Tribunal for extension of time giving facts and figures and ^{satisfactorily} ~~reasons~~ for giving ^{vi} ~~for~~ enlargement ^{of} of time.

and directions ^{by}
With these observations ^{we} dispose of this application. However, there will be no order as to costs.

^{M. M. Singh}
(M.M. Singh)
Administrative Member

^{N. Dharmadani}
(N. Dharmadani)
Judicial Member

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