

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH
~~NExWxDExMx~~O.A. No. 644 OF 1987
~~XXXXXX~~

DATE OF DECISION 26-04-1990.

Mr. Mayavan Alagamuthu, & 113, other ~~petitioner~~Mr. Y. V. Shah

Advocate for the Petitioner(s)

Versus

Union of India and others RespondentMr. 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 Kaliyan
 6. Muthuswamy Subburayan
 7. Elangovan Kesavan
 8. Thangavel Chinnu
 9. Nathan Mothayan
 10. Saminathan Ambalathadi
 11. Moganshingia Kanshingh
 12. Athiya Hrishi
 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 Khrusnan
 22. Saroja Thangavel
 23. Khrusnaveni 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. Thangavel Chinnapayyan
 45. Turuswamy Sevaperumal
 46. Laxman Ramaswamy
 47. Ramesh Siyaram
 48. Muthiya Alagamuthu
 49. Karuppan Mannagali
 50. Veeramuthu Kaliaperumal
 51. Addoni Manamuthu
 52. Vellakani Saverimuthu
 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. Ramalingam 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 Kullan, Mate,
78. Ayyakusan Nathu
79. Chinnathampi Muthuswamy
80. Subburamaniyam 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 Ramalingam
111. Veeramma Rangaswamy
112. Chinnappillai Motiyan
113. Buduma Sabhapati
114. Mayawan G.

...Petitioners

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 ~~the~~ 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 ~~not~~ approach this Tribunal.

The Railway has filed a detailed counter affidavit and denied various allegations. The matter was ^{heard at} length. In fact the learned counsel for the Railway very fairly submitted at the time of the arguments that the applicants are ^{h being} 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 into 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 the ^{decisions of 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 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.

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 there have been already regularised and one expired and the rest of them are ^{dh} entitled to be regularised. Their services would be regularised in due course taking into consideration their seniority and as when vacancies arises 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 of the Judgment, in accordance with the seniority.

(10)

in the respective divisions in which they are working
of these applicants as and when regular vacancies arise
in the respective divisions 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} efforts they are at ^{liberty} freedom to approach this
Tribunal for extension of time giving facts and figures
^{dates facts} and reasons for giving ^{for} enlargement of time.

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

M. M. Singh
(M. M. Singh)
Administrative Member

N. Dharmadān
(N. Dharmadān)
Judicial Member

AIT