

13

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

O.A.221of 1991

Date of decision : 20.04.2000

Shri. Mula Ghema & Others : Petitioner [s]

Mr. K. K. Shah : Advocate for the petitioner [s]

Versus

Union of India & Ors. : Respondent [s]

Mr. N. S. Shevde : Advocate for the Respondent [s]

CORAM :

THE HON'BLE MR. V. RAMAKRISHNAN VICE CHAIRMAN

THE HON'BLE MR. P. C. KANNAN MEMBER [J]

JUDGMENT

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

Mr. Mula Ghema and Others
(All these applicants have
been granted temporary status).
W.Rly., Employees Union
Represented through
Branch Secretary, S. Natesan Iyer.

Advocate : Mr. K. K. Shah

Versus

1. Union of India owing,
Representing and administrating
Through its General Manager (Est.),
Western Railway,
Head Quarter office,
Old Building, Church gate,
Bombay - 400 020.
2. Divisional Railway Manager (Est.),
(Eng.), Western Railway,
Pratapnagar,
Vadodara - 390 004.

Advocate : Mr. N. S. Shevde

ORAL ORDER
O.A 221 of 1991

Date : 20.04.2000

Per Hon'ble Shri. V. Ramakrishnan : Vice Chairman.

am
We have heard Mr. K. K. Shah for the applicant and Mr. Shevde for the
respondents.

2. The applicants whose names are listed in Annexure A/1 have approached the Tribunal seeking a direction that they are entitled to the grade of Rs.260-400/- (950-1500/-) from the date of grant of temporary status with consequential benefits.

3. The applicants were engaged as Gangmen and subsequently, they were made to work as casual mates. The Railways admit that they in fact had worked as casual mates for some period as is seen from para 6 of the reply statement. They were granted temporary status by an order dated 20.04.88 and 21.04.88 as is seen from the letter as at Annexure A/1. We find that the total number of such persons in the first letter is 28 and in the second letter is 7 whereas the applicants are 41 in number. Mr. K. K. Shah submits that similar orders are issued in respect of the other applicants who have filed this O.A. The applicants have contended that they have continued to work as mates even after grant of temporary status and the so called designation as Group Coordinator by the Railways is to be disregarded and no such category of posts exists as per the Railway Rules. Mr. K. K. Shah also contends that the provisions contained in Rules 149 onwards in the Permanent Way Manual spells out the duties of mates and from this it would be clear that they have to supervise the work of Key Man which is a promotion post from the level of Gangman. This job requires co-ordination of the group and to call them Group Coordinator instead of designating as mates has only been done with a view to deprive them of the pay as admissible to the mates. Mr. Shevde submits that the impugned order had given them pay in the scale of Rs.210-270/- revised to Rs.800-1150/- whereas the correct

VJ

grade for the mates is Rs.260-400/- revised to Rs.950-1500. Mr. Shah also argues that on grant of temporary status, the applicants have a right to be brought over to the relevant scale of Rs.260-400/- revised to Rs.950-1500/- and not Rs.210-270/- revised to Rs.800-1500/-.

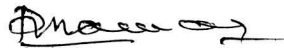
4. Mr. Shevde for the respondents states that it is not a fact that they had worked as mates but they had worked only as Group Coordinator. He is also not sure whether all the applicants have been granted temporary status as the orders at Annexure A/1 and A/2 do not cover all the applicants. He states on instruction that the applicants have not performed duties of mates as required in the manual. We have inquired of Mr. Shevde to indicate whether the category of Group coordinator exists in the Railways and also to show us the difference between the duties of group coordinator and casual mates. Mr. Shevde has drawn attention to the duties of mates, Key man and Gangman which is elaborated under Rules 149 to 160 in part D of the Permanent Way Manual. He confirms that there is no such post of group coordinator in the Engineering department in the Railways.

5. We have considered the submissions of both counsel and have also gone through the Rules in Permanent Way Manual. We find from these Rules that mate is a superior post as compared to even Key man which is higher post to that of Gangman. Rule 160 states that the mate shall inspect whole Gang length once a

week, on which day he will carry out the Keyman's work and duties and the Keyman will remain in charge of the Gang. It is not the case of the Railways that the applicants had been conferred with temporary status as Key Man and performed the duties as Key Man but what they say is that they have not worked as Mates. Mr. Shevde refers to the contents of the letter dated 24.12.87 as at Annexure A/3 where there is a statement that the applicants did not perform the duties of mates as stipulated in para 149 to 160. This does not bring out that the duties performed by them at the time of conferment of temporary status were less than those of Mates when they have functioned as such as casual mates earlier. We notice that there is a letter from the Sr. Executive Engineer dated 15.04.87 (Copy at Annexure A/3). We find that the matter was referred to the Headquarter vide office letter dated 02.03.87 and 24.03.87 and the headquarter has taken objection to the recruitment of casual mates under PWI (PQRS, BH) and inquired as to why regular Gangman cannot be promoted. It further says that responsibility should be fixed in this regard and that it is not understood as to under what rules they are being paid as Gangman and that they have got to be paid in the grade in which they are engaged. This is seen from the enclosure to the letter dated 07/15.09.87 as at Annexure A/3. From the foregoing, it would appear that after the headquarters took objection to the recruitment of casual mates, the Assistant Engineer in the local division developed certain reservation with regard to designating them as mates. He has also sent a letter dated 22.2.88 where he has stated that those who are engaged from subsequent period in 85 from the date they conferred temporary status in the grade of Rs.775-1025/-.

Despite the grant of opportunities, the Railways have not been able to bring out the exact difference between the duties of mates and group coordinator which category does not find a place in the Railway Rules and instructions. There is a blank statement that they have not performed duties of the mates without bringing out as to the actual duties they have performed. In the circumstances, we hold that the stand of the applicants that they had in fact performed the duties of the mates even after conferment of the temporary status as they had already been recruited as casual mates had remained un-rebutted. In view of this, we direct that the Railway Administration shall pay to those of the applicants who are covered in terms of the order dated 20.04.80 and 21.04.88 as at Annexure A/1 and had been conferred with temporary status as group coordinator in the scale of Rs.260-400 / 950-1500/- instead of the scale of Rs.210-270 / 800-1150/- and pay to them the difference of pay ^{for} from the period during which they were stated to have functioned as Group coordinator. Mr. Shah submits that similar orders have been issued in respect of the other applicants. The Railways shall verify this statement and if they find any such orders had been issued in respect of the remaining applicants where they have also been designated as group coordinator, they shall also pay them in the scale of Rs.260-400/- / 950-1500 for the period from the date they have been designated as group coordinator. The applicant, may also produce any copies of the orders available with them. The direction in this regard should be complied with within three months from the date of receipt of a copy of this order.

6. With the above directions, the O.A. is finally disposed of with no orders as to costs.



(P. C. Kannan)
Member (J)



(V. Ramakrishnan)
Vice Chairman

mb

Sr.No. 44/2000

Dated: 7.9.2000

Submitted: Hon'ble Vice Chairman &

~~Hon'ble Mr. V. Radhakrishnan, Member (A)~~

Hon'ble Mr. P.C. Kannan, Member (J)

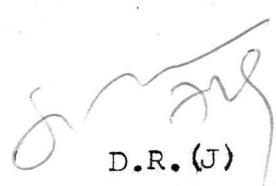
Hon'ble Mr. A.S. Sanghvi, Member (J)

Hon'ble Mr. G.C. Srivastava Member (A)

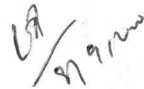
Certified Copy of order dated 26.7.2000 in EA/
Spl.C.A. No. 8151 of 2000 passed by the
Supreme Court/ High Court against the Judgment/ Oral Order
passed by this Tribunal in OA/221/91 is placed for perused
pleasure.


7/9/2000


S.O. (J) 7/9/2000



D.R. (J)


Hon'ble Vice Chairman


7/9/2000

~~Hon'ble Mr. V. Radhakrishnan, Member (A)~~

Hon'ble Mr. P.C. Kannan, Member (J) 
8/9/2000

Hon'ble Mr. A.S. Sanghvi, Member (J) 
8/9/2000

Hon'ble Mr. G.C. Srivastava Member (A) 
8/9/2000

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

No. CAT/A'bad/Judl./Vacation/94/ Opp. Sardar Patel Stadium,
Navrangpura,
Ahmedabad-380 009.
Dt. 12.12.1994.

NOTIFICATION

It is notified for general information that the
Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad
will remain closed from Monday 26.12.94 to 30.12.94 on
account of Winter Vacation.
During the vacation period, a Bench consisting
of Hon'ble Shri K. Ramamoorthy, Member (A), Central
Administrative Tribunal, will hold sitting on 27.12.94
to 29.12.94 hrs. onward, to transact emergent business
only.
The filing counter of the Registry of the Tribunal
will remain open from 1030 Hours to 1300 Hours during
the vacation period and will receive only urgent
application. However, the office of the Tribunal shall
continue to remain open from 0945 Hours to 1815 Hours
on working days.

(K.J. SHETH)
DEPUTY REGISTRAR (J)

order

Copy to :

1. P.S. to Hon'ble Chairman, Principal Bench, Central
Administrative Tribunal, Faridkot House, New Delhi.
2. P.S. to Hon'ble Vice Chairman, C.A.T. Ahmedabad.
3. P.S. to Hon'ble Administrative Members, CAT, Ahmedabad.
4. P.S. to Hon'ble Judicial Member, CAT, Ahmedabad.
5. The Dy. Registrar, Principal Bench, C.A.T. New Delhi.
6. The Registrar, C.A.T. Ahmedabad.
7. The Dy. Registrar, (Judl. & Adm.) CAT, Ahmedabad.
8. The Registrar, Gujarat High Court, Ahmedabad.
9. Secretary, Bar Association, Gujarat High
Court, Ahmedabad.
10. Secretary, Ahmedabad Tribunal Practitioner's
Association, Ahmedabad.
11. The Editor, The Time of India, Indian Express
Gujarat Samachar, Sandesh, Jansatta, A'bad.
It is requested to publish this notification as
an item of news in their esteemed daily.
12. Section Officer, C.A.T., Ahmedabad.
13. Accounts Section, C.A.T., Ahmedabad.
14. Court Officer, C.A.T., Ahmedabad.
15. Copy to Notice
Board, I & II, C.A.T. Ahmedabad.
16. Guard File.
17. Registrar/Dy. Registrar of all other Benches of C.A.T.

WRIT

Dispatch No.

(TO BE RETURNED TO THIS COURT/~~TO BE SERVED ON RESPONDENT NO.~~)

(TO BE RETURNED TO THIS COURT DULY EXECUTED)

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Interim stay of execution Order XL1
Special Civil Application No 8151 of 2000

Fixed on : 24/08/2000

District AHMEDABAD

Petitioner(s) Advocate

MRS SIDDHI D TALATI

UNION OF INDIA

& 1

Vs

MULLA GHEMA

Opponent(s).

To

1.

✓ THE REGISTRAR,
CENTRAL ADMINISTRATIVE
TRIBUNAL, AHMEDABAD,



UPON Reading the petition of the abovenamed petitioner(s) presented this Court through his/her/their Advocate MRS SIDDHI D TALATI praying that pending admission, hearing and till final disposal of the Spl.Civil Application this Hon'ble Court may be pleased to stay the execution, implementation and operation of the judgment and order dated.20/4/2000 Annexure-D to this petition.

And Whereas Upon hearing MRS SIDDHI D TALATI, Advocate for the petitioner, Court passed the following order :-

Coram : B.C.Patel & P.B.Majmudar, JJ. (Dt.26/7/2000)

Rule.

Ad-interim relief in terms of para 11(C). Notice as to interim relief returnable on 24th August, 2000.

~~/- or any other subsequent day which to this court may seems convenient~~

It is hereby accordingly ordered that, the execution, operation and implementation of the order dated 20/4/2000 passed by you in O.A.No.221/91, be and are hereby stayed.
Witness DEVDATTA MADHAV DHARMADHIKARI, Esquire Chief Justice

at Ahmedabad aforesaid this 26th day of Jul, 2000

By the Court.

Fr Deputy Registrar

This 01st day of Aug 2000

True Copy

Fr Deputy Registrar.

*Judicial
And
07-8-2000*

*Fr
7/8*

15266
WRIT

To be retained by you

Dispatch No.

(TO BE RETURNED TO THIS COURT/TO BE SERVED ON RESPONDENT NO.)

(TO BE RETURNED TO THIS COURT DULY EXECUTED)

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Interim stay of execution Order XL1 of etc)
Special Civil Application No 8151 of 2000

Fixed on : 24/08/2000

District AHMEDABAD

Petitioner(s) Advocate

MRS SIDDHI D TALATI

UNION OF INDIA

& 1

Vs
MULLA GHEMA

Opponent(s).

To

1.

✓ THE REGISTRAR,
CENTRAL ADMINISTRATIVE
TRIBUNAL, AHMEDABAD,

UPON Reading the petition of the abovenamed petitioner(s) presented this Court through his/her/their Advocate MRS SIDDHI D TALATI praying that pending admission, hearing and till final disposal of the Spl.Civil Application this Hon'ble Court may be pleased to stay the execution, implementation and operation of the judgment and order dated.20/4/2000 Annexure-D to this petition.

And Whereas Upon hearing MRS SIDDHI D TALATI, Advocate for the petitioner, Court passed the following order :-

Coram : B.C.Patel & P.B.Majmudar, JJ. (Dt.26/7/2000)

Rule.

Ad-interim relief in terms of para 11(C). Notice as to interim relief returnable on 24th August, 2000.

/- or any other subsequent day which to this court may seems convenient

It is hereby accordingly ordered that, the execution, operation and implementation of the order dated 20/4/2000 passed by you in O.A.No.221/91, be and are hereby stayed. Witness DEVDATTA MADHAV DHARMADHIKARI, Esquire Chief Justice

at Ahmedabad aforesaid this 26th day of Jul, 2000

By the Court.

Sd/- V.S. Shah

for Deputy Registrar

This 01st day of Aug 2000

True Copy

for Deputy Registrar.

S. J. P. / -
S. J. P. / -

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

Submitted ;

C.A.T./JUDICIAL SECTION.

Original Petition No.: 231 of 90-91.

Miscellaneous Petition No.: of .

Shri Mula Gema & Co. Petitioner(s).

Versus.

Union of India & Co. Respondent(s).

This application has been submitted to the Tribunal by

Shri K. K. Shah

Under Section 19 of the Administrative Tribunal Act, 1985.

It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunals Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The Application has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant may be advised to rectify the same within ¹⁴21 days/draft letter is placed below for signature.

Asstt. :

S.O.(J). :

Dy. R.(J):

(Reattached)

Verification clause not signed by all parties.

IP not duly stamped

Document not properly marked

Page no 12, not legible

✓ IPO not supplied.

We may inform accordingly.

he may issue ob; lare
 8
 13/11
 Mr
 to
 13/11/90
 10/11/90
 13/11/90

he may fix the date for ob; board
 8
 13/11
 Mr
 to
 10/11/90
 10/11/90
 10/12/90

Advocate Concerned has remove
 office objection & we may fixed
 for admission as Cap served
 to other side.

10/11/91
 So. (5) 10/11/91
 04/June/91
 10/11/91

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

APPLICANT (S)

Mula Gemen R a

RESPONDENT(S)

Lunim g Inda a a

PARTICULARS TO BE EXAMINEDENDORSEMENT AS TO
RESULT OF EXAMINATION.

1. Is the application competent ?
2. (A) Is the application in the prescribed form ?
(B) Is the application in paper book form ?
(C) Have prescribed number complete sets of the application been filed ?
3. Is the application in time ?
If not, by how many days is it beyond time ?
Has sufficient cause for not making the application in time stated ?
4. Has the document of authorisation/ Vakalat Nama been filed ?
5. Is the application accompanied by D.D./I.P.O. for Rs.50/- ? Number ~~for~~ of D.D./I.P.O. to be recorded.
6. Has the copy/copies of the order(s) against which the application is made, been filed.?
7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed. ?
(b) Have the documents referred to in (a) above duly attested and numbered accordingly ?
(c) Are the documents referred to in (a) above neatly typed in double space ?
8. Has the index of documents has been filed and has the paging been done properly ?

Not received

Yes (time AS - P 27)

PARTICULARS TO BE EXAMINED.

ENDORSEMENT TO BE RESULT
OF EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application.?
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal ?
11. Are the application/duplicate copy/spare copies signed.?
12. Are extra copies of the application with annexures filed.?
 - (a) Identical with the Original.
 - (b) Defective.
 - (c) Wanting in Annexures
No. _____ Page Nos. _____ ?
 - (d) Distinctly Typed ?
13. Have full size envelopes bearing full address of the respondents been filed ?
14. Are the given addressed, the registered addressed ?
15. Do the names of the parties stated in the copies, tally with Name(s) ~~those~~ those indicated in the application ?
16. Are the transactions certified to be true or supported by an affidavit affirming that ~~any~~ they are true ?
17. Are the facts for the cases mentioned under item No.6 of the application ?
 - (a) Concise ?
 - (b) Under Distinct heads
 - (c) Numbered consecutively ?
 - (d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for, stated with reasons.?

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O.A.NO. 221 of 1991.

Mr. Mula Gema and others Applicants

Versus

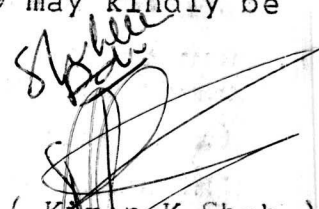
1. Union of India and others
2. Divisional Railway Manager
(Establishment) (Eng)
Western Railway,
Pratapnagar, Baroda. Respondents

May it please before this Hon'ble Tribunal :

1. The undersigned hereby states on behalf of the applicants that the subject matter under challenge is having a common cause of action, and therefore, as per the Administrative Tribunal Act, the permission for filing a common application u/s. 19 may kindly be granted.

Ahmedabad,

Date: 5-2-'91


(Kiran K. Shah)
Advocate for the
Applicants.

step e 417/90
25/9/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

ORIGINAL APPLICATION NO. 221 OF 1990

MULA GEMA and Others

.... Applicants

V/s.

Union of India and Others

.... Respondents

TITLE OF THE CASE

EQUAL PAY FOR EQUAL WORK

Index

Sr.No.	Annexure	Particulars	Page No.
1	"A"	Memo of application	1 to 7
2	"A"	List of Anand branch Temporary status mates	8
3	"A-1"	List of Mehmedabad branch Temporary status mates.	9-11
4	"A-2"	Copy of Railway Board circulars dated	12-16
5	"A-3"	Copy of the letter dated 7/15-9-87	17-19
6	"A-4"	Copies of representation dated 13.5.89.	20-26
7	"A-5"	Memorandum dated 29.9.89	27

[Signature]

Kiran K. Shah

Advocate for the Applicants.

Dated: 25-9-1990.

2+2
(Kiran K. Shah)

Copy to
not to be
Aer
25/9/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

ORIGINAL APPLICATION NO. 2 OF 1990.

Mr. Mula Ghema and Others ... Petitioners
V/s.
Union of India and Others ... Respondents

1. Details of Application:

Particulars of the Applicant:

- (1) Mr. Mula Ghema and Others
(All these applicants have been granted
Temporary status).

- (2) Western Railway Employees Union
represented through Branch Secretary
S. Natesan Iyer.

Petitioners annexed in 'A' are working under
Chief permanent way Inspector (R), Western Railway,
Anand - 388 001.

Petitioners annexured in 'A-I' are working under
permanent way Inspector Western Railway,
Mehmedabad - 387 130.

Address for service of notices: C/o. Kiran K. Shah,
Advocate,
3, Achalayatan Society,
B/H. Memnagar Fire Station,
Navrangpura,
Ahmedabad- 380 009.

2. Particulars of the respondents:

- (1) Union of India owning, representing and administering
through its
General Manager (Establishment), Western Railway,
Head Quarter Office, Old Building, Churchgate,
Bombay - 400 020.

- (2) Divisional Railway Manager (Establishment), (Eng.),
Western Railway, Pratapnagar,
Vadodara - 390 004.

3. Particulars of order against which the application is made:

The application is against the following orders:

The present application has been preferred for seeking equal pay
for equal work; to the Temporary Status Mates. The temporary status
labourers are working with the respondents and they redressed their
grievance with the recognised union namely Western Railway Employees
Union and the same is represented by Divisional Secretary in the

permanent negotiating machinery. The respondents failed to reply to those demands nor they have decided the issue.

The action of the respondents by not granting equal pay for equal work to the applicants is in violation of article 14 and 16 of the constitution of India.

The orders issued by respondent No.2 dated 22.2.1988 are without application of mind and against the order of the Chief Engineer's order dated 7/15/9/'87. The respondents failed to give their reason or to take any decision in PNM item and hence the applicant has been preferred before this Hon'ble Tribunal. *The applicants seeking same benefits as per order dt. 29/9/86 as per Annexure A-5.*

4. Jurisdiction of the Tribunal:

The applicants declares that the subject matter of the order against which they wants redressal is within the jurisdiction of the Tribunal.

5. Limitation:

The applicants further declare that the application is within the limitation prescribed in section 21 of the administrative tribunal act 1985.

6. Facts of the case:

The facts of the case are given below:

6.1 The applicants are citizen of India and the applicant No.2 is the branch secretary of Western Railway Employees Union, Mehmedabad branch.

6.2 The applicants are casual mates having been granted temporary status and at present they are working under Chief Permanent Way Inspector(R), Western Railway, Anand - 388 001 and Permanent Way Inspector, Western Railway, Mehmedabad - 387 130, as per the names and details given in Annexure-A and A-1.

6.3 As per the provisions contained in the circular of Indian Railways, the persons recruited in the grade have to be granted temporary status in that grade. The copies of circulars ^{are} ~~is~~ annexed herewith earmarked as Annexure A-2.

6.4 These temporary status mates are shouldering higher responsibilities but they have not been paid equal wages to regular mates i.e in grade 260-400/950-1500 (RP).

Respondents No.2 vide his letter dated E/E/615/1/23/1 dated 22.2.88 have granted temporary status in grade 800-1150(RP) instead of 900-1500(RP) as group co-ordinator. There is no such post prevailing in the Western Railway.

The grant of temporary status is based on the corresponding post prevailing in Railway and when the work of Temporary status mates and permanent mates are same, such discriminatory ^{is} ~~will~~ not sustained in the eyes of law.

At the same time one of such temporary status mates has been granted in grade 950-1500(R) by the same respondent No.2. The copy of memorandum dated 29.9.89 is annexed here to as annexure A-5. These employees is also working in the same office at Anand.

Fundamental Rules- 9.31 C: speaks that " A post is said to be on the same time scale, as another post on a time scale, if the two time scales are identical and the post will fall within a cadre, such or class having been created in order to fill all posts involving duties of approximately the same character or degree of responsibility in a service or establishment or group of establishment, so that the pay of the holder of any particular post is determined by his position in the grade or class and not by the fact he holds the post".

It is also an admitted fact the these petitioners are doing the same job, as regular mate and in the F.R it is categorically stated that the pay of holder is determined by his position and not by the fact that he holds the post. It is also clarified that all post involving duties of approximately the same character or degree of responsibilities and they are doing the same work as mate in regular cadre and there is no post designated as group co-ordinator in the regular cadre.

6.5 Chief Engineer(Establishment) Western Railway, Bombay has clarified that these labourers are to be paid as regular mates. The said decision communicated by respondent No.2 vide No. E/E/615/1/23(1) dated 7/15-9-87. Instead of paying the correct wages i.e in grade 950-1500(RP) Respondent No.2 illegally and arbitrarily referred the matter again to respondent No.1 when the Chief Engineer asked to fix the responsibility. The Chief Engineer vide his No. E/E/615/5/21 dated 24.12.87 reversed his decision without application of mind.

Respondent No.2 vide No. E/E/615/1/23/1 dated 22.2.88 have communicated that these persons are to be paid in grade 800-1150. All these letters annexed herewith and marked as annexure A-3.

Legal Grounds:

a) The petitioners are being paid wages for less than the minimum pay payable under the scale applicable to the regular employees belonging to the corresponding grades is more admitted by the respondents. The respondent No.1 first decided to pay in grade 950-1500(RP) as per provision of rules but at the instant of wrong interpretation of rules made by respondent No.2, he has revised his decision without application of mind, which leads sheer exploitation. Temporary status are always granted to the pay scale applicable to the regular employees belonging to the corresponding grade. In the regular corresponding grade there is no grade prevailing as group co-ordinator in the Western Railway.

w

The character and degree of responsibility of a permanent Mate and temporary status mate are same as explained in para 6.4 above i.e as per provisions of fundamental rule 9.31.b.

The petitioners are rendering the same kind of service, which is being rendered by regular employees doing the same type of work. Clause(2) of Article 33 of the constitution of India which contains one of the Directive principles of state policy provides that the state shall, in a particular strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations. Even though the above directive principle may not be enforceable as such by virtue of article 37 of the constitution of India. That the instant case they have been subjected to hostile discrimination. It is urged that state cannot deny at least the minimum pay in the pay scales of regularly employed workmen even though the Government may not be compelled to extend all the benefits enjoyed by regularly recruited employees. Such denial amounts exploitation of labour.

The respondents in Railways, cannot take the advantage of its dominant position and compel any worker to work even as a temporary status mate on starving wages. It may be that these petitioners has agreed to work on such low wages. That they have done because there is no other choice. It is the poverty that has driven to them to that state. The Railways being the model employer, the classification of employees into regularly recruited employees and casual employees for the purpose of paying less than the minimum pay payable to the employees in the corresponding regular cadres in the lowest rungs of the department where as the pay scales are the lowest is not tenable. There is clearly no justification for doing so. Such a classification is violative of articles 14 and 16 of the constitution. It is also opposed to the spirit of article 7 of the International Covenant on economic, social and cultural rights 1965 which exhorts all states parties to ensure fair wages and equal wages for equal work.

The Hon'ble Supreme Court has decided in the identical cases and directed the government to pay equal wages for equal work.

1. Randhirsing V/s. Union of India and others - 1982 3 SCR 298-1982
1 sec 618
2. D.R.G.L. employed under P&T Dept. & others
V/s. Union of India and others - SL J 1988(2)SC page
31.
3. Dhirendrachamoli and Another v/s. Union of
India and others. - 1986 1 Sec 637.

It can also seen from the memorandum dated 29.9.89 that one such temporary status mate working at Anand has been granted in grade 950-1500 (RP) which is the documentary evidence that the contention of respondent No.2 to discriminate these petitioners is bad in law. The copy of the memorandum is annexed herewith and marked as Annexure A-5, such violates the principles of natural justice.

b) The decision given by respondent No.1 is the competent authority, has decided by virtue of his order dated 7/15-9-87 bearing No. E/E/615/1/23/:

i) To give the pay to the applicants in scale of Rs.950-1500(RP). The subordinate authority namely respondent No.2 can't supersede or ignore the order of the respondent No.1. There is no powers lying with him to revise the order issued by the respondent No.1 and respondent No.2 without being empowered, ignored this order of competent authority and to exploit the applicants and for using colourable exercise of power referred to matter to respondent No.1 to fix the responsibility and the order was reversed by respondent No.1 without application of mind, arbitrarily or showing the reasons for reversing the earlier order and this frequent change in the two orders, one giving the benefits of scale 950-1500 and secondly reversing in the scale 800-1150. It means that without applying mind or having in nexus and without observing the scale of pay of mates which is to be paid to the regular mates, the applicants being temporary mates having been possessing the same designation, they are deprived the benefits of the well known principles of law laid down by various courts "Equal Pay for Equal work".

ii) The action of the respondents is also violative of principles of estoppel and promissory estoppel. Since, once the respondent decided to pay the scale of regular mates to the applicants without having any function or change in the pay rules prescribed in the statutory act, the respondent could not stop by issuing further order of minimising the same.

iii) That the pay is being minimised by subsequent order immediately, the opportunity of hearing is required to be given and it is also violative of article 311(ii) of the constitution of India and violative of principles of natural justice.

iv) The respondents, in the democratic set up in our country acting not as a model employer and it is also violative of article 39 (a) of the constitution of India.

v) The action of the respondents is also violative of article 14 and 16 of the constitution of India

7. Details of the remedies exhausted:

The applicants declare that they have availed of all the remedies available to them under the relevant service rules. The copies of representation is annexed herewith and marked as annexure A-4.

8. Matter not previously filed or pending with any other court.

The applicants further declare that they have not previously filed any application, writ petition, or suit regarding the matter in respect of which this application has been made, before any court of law, or any other authority or any other bench of the tribunal, nor any such application, writ petition or suit is pending before any of them.

6

9. Relief(s) sought:

In view of the facts mentioned in para 6 above, the applicants prays the following reliefs:

- (A) This Hon'ble Tribunal may be pleased to declare that the petitioners enlisted in Annexure A & AI are entitled in the grade 260-400(R)/%0 -1500(RP) from the date of grant of temporary status, and with all flowing consequential benefit therein and held that the action of the respondents by ordering lower wage than the permanent regular mates is arbitrary and discriminatory and violative of the article 14 and 16 of the constitution of India and therefore such order requires to be quashed and set aside and the applicants to be paid equal pay of regular mates from the date they started discharging duties of mates in the interest of justice with all consequential benefits.
- (B) The benefit of judgement may also be extended to those who are similarly situated and not approached to this tribunal.
- (C) This Hon'ble tribunal may be pleased to allow this application with costs.
- (D) Any other order or direction may be deemed fit in the interest of justice may be passed.

10. Interim order, if any prayed for:

Pending final decision on the application, the applicant seek issue of the following interim orders:

- a) Pending admission and final disposal of this application, the Hon'ble Tribunal may kind enough to direct the respondents to pay the wages in grade 260-400(R)/%0-1500-(RP).
- b) Any other order or direction may be deemed fit in the interest of justice may be passed.

12. Particulars of postal order in respect of the application fees:

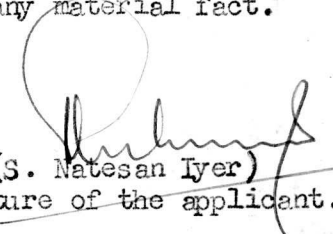
1. Number of Indian Postal Order(s) 8-01 8476 88
2. Name of issuing post office. Gov. High Court
3. Date of issuing post order(s). 5/8/91
4. Post office at which payable. A/Coat

13. List of enclosures:

All the annexures are true copy of the same. The details of the annexures are given in index.

VERIFICATION

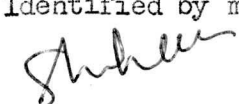
I, S. Natesan Iyer (Name of the applicant) aged about 43 years working at Mehmedabad as Assistant Raction Foreman in the office of the Assistant Traction foreman and residing at Nadiad on behalf of all the applicants undersigned do hereby verify that the contents of paras 1 to 13 of the application are true to my personal knowledge. I have not suppressed any material fact.


(S. Natesan Iyer)
Signature of the applicant.

Date: - -1990

Place: Ahmedabad

Identified by me:


Kiran K. Shah,
Advocate.

Filed by Mr. IC IC 8108
Learned Advocate for the petitioners
with second set of 2 copies
copies copy sent to other side

Di. 27/9/90


C. S. Shenoi
A.L. Bench

By Registrar C.A.T. (027/3) 30

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

ORIGINAL APPLICATION NO. 31 OF 1991.

MULA GEMA AND OTHERS., APPLICANTS.

V/s.

UNION OF INDIA & OTHERS. RESPONDENTS.

VERIFICATION

We are all Applicant, aged adult., working Anand, =Temporary status. all the applicants undersigned do hereby verify that the contents of para 1 to 13 of the application are true to my personal knowledge . I have not suppressed any material of fact-

I further states that all annexure are true copies of the original.

Solemnly affirmed on th day of May
1991.

Identified ~~by~~ home.

(kiran K. Shah)
Advocate for the
Applicants.

X(1) મુલા દેમા

X(2) ઉદય દસા

X(3) મરહુમ રંગી

X(4) રામજી તે.

X(5) ભાઈ ભાઈ

X(6) રામજી

(7) રામજી દેસાઈ

(8) મીઠું કાલું

(9) બારસીગલાઈ જાનાલાઈ

(10) જાડા સોરખ

(11) પર્વત મઈલા

(12) ફેસરસીંગા પુળા

(13) ચાવુર દેસાઈ

(14) પ્રલિંગા ઉદેસી

(15) દુબા વિરજીંગા

(16) મગલા માનસિંહ

(17) સોનીયા શાહા

(18) બારી કચરા

(19) કાલી ડાહી

(20) [SALIM. ISMAIL]

(21) ગુલાબ કાલું

(22) ભાવળ મોલી

(23) રાજા મજેસીંગા

(24) દુકિયાનાલા

(25) પારખી માગળ

(26) સુંદર ગોવરદન

(27) લીરખા દરી

(28) દેવજી

(29) મીઠું કાલું

(30) રામસિંહ કાલું

(31) પ્રભાત પુળા

(32) પુળા બાલું

(33) સીતર કાલું

રામજી ભીમા

(34) AMRA BHIMA

(35) SAMSU SAKARIA

પંગાલી ગડીયા

(36)

(37) કચ્છ દુબા

(38) બારી કચરા

(39) કાલું વિરજીંગા

(40)

8

ANNEXURE - A

LIST SHOWING THE NAMES OF PETITIONERS, HEAD-
QUARTERS AT ANAND WORKING AS TEMPORARY STATUS MATES

<u>Sr.No.</u>	<u>Name</u>
1.	Shri Mula Gema
2.	Shri. Bhurka Ranga
3.	Shri Bodu Haraji
4.	" Soma Tersing
5.	" Bhaila Gaja
6.	" Sana Sakria
7.	" Raman Desai
8.	" Mithu Kalu
9.	" Narsing Mana
10.	" Jitra Soria
11.	" Parvat Bhila
12.	" Kesarsing Poona
13.	" Chatur Desai
14.	" Pravin Udesing
15.	" Chhagan Veersing
16.	" Mangla Mansing
17.	" Sonia Salia
18.	" Manu Kachra
19.	" Kani Dahya
20.	" Salim Ismail
21.	" Geelam Kalu
22.	" Bavji Moti
23.	" Sana Gajesing
24.	" Hakia Lala
25.	" Parthi Manji
26.	" Sinder Goverdhan
27.	" Tirtha Hari
28.	" Teja Tritha
29.	" Mithu Kalu
30.	" Ramsing Kalu
31.	" Pratap Puna
32.	" Puna Dalu
33.	" Sabar Kalu
34.	" Amra Bhima

.....

True Copy
Shri
Ad

9

ANNEXURE - A-1.

LIST SHOWING THE NAMES OF PETITIONERS HEADQUARTERS
AT MEEMEDABAD WORKING AS TEMPORARY STATUS MATES.

<u>Sr.No.</u>	<u>Name</u>
1.	Ranchood Mangal
2.	Tera Chaggan
3.	Soma Zala
4.	Saboor Gamir
5.	Manilal Babu
6.	Deepsingh Bhura
7.	Saboor. M.

.....

Trak G
Shiller
Per

No 4/6/8.

OFFICE OR DER.AEN's Office,
Anand.
Dated: 20/4/88.Sub: Grant of scale Rate to Casual labour as
group co-ordination under CPWI(RF) Anand.

Ref: DM(D) BRC's No. E/E/615/1/23/1 of 22/2/88.

In terms of letter quoted above the following staff are granted in semi-skilled grade Rs. 210-270(R)/800-1150(RP) from the date shown each as detailed below. It may be brought to the notice to the staff that this will not confer any claim or right of such staff for regular absorption in the grade 210-270(R)/800-1150.

Sr. No.	Name of staff S/Shri	Designation.	Grade	Revised grade effective from.
1.	Mithu Kalu	Sr. Scale staff.	210-270(R)/ from 1/1/86 800-1150(RP).	21/11/85
2.	Bhurka Ranga	-do-	-do-	21/12/85
3.	Bachu Harji	-do-	-do-	21/11/85
4.	Soma Tersing	-do-	-do-	21/1/86
5.	Bhila Gaja	-do-	-do-	24/12/85
6.	Sana Sakria	-do-	-do-	21/1/86
7.	Raman Dasai	-do-	-do-	21/11/85
✓ 8.	Narsing Mana	-do-	-do-	5/2/86
✓ 9.	Mula Ghema	-do-	-do-	21/2/86
10.	Jitra Sonia	-do-	-do-	24/2/86
11.	Parvat Bhila	-do-	-do-	3/4/86
12.	Kesarsing Poona	-do-	-do-	21/11/85
13.	Chatu Desai	-do-	-do-	21/8/87
14.	Pravin Udesing	-do-	-do-	26/12/85
✓ 15.	Chagan Vesring	-do-	-do-	22/2/87
✓ 16.	Mangla Mansing	-do-	-do-	21/11/85.
17.	Sonia Salia	-do-	-do-	4/4/86
18.	Manu Kachra	-do-	-do-	22/2/86
19.	Kanti Darya	-do-	-do-	21/4/87
20.	Salim Ismail	-do-	-do-	21/11/85.
21.	Gulab Kalu	-do-	-do-	21/1/86
22.	Raoji Moti	-do-	-do-	21/6/87
23.	Sana Gajesing	-do-	-do-	21/1/86
24.	Hakia Lala	-do-	-do-	21/5/86
25.	Parthi Manji	-do-	-do-	21/5/86
26.	Sunder Goverdhan	-do-	-do-	21/5/86
27.	Tirtha Hari (expired)	-do-	-do-	21/5/86 to 16/11/87.
✓ 28.	Teja Tirtha	-do-	-do-	18/11/87.

Sd/-

AEN Anand.

C/- CPWI(R) Anand for information. This has reference to his letter No. E/615/1 of 18/3/88. The revised grade may be drawn to the staff with arrears and this office advised.

C/- DM(R) BRC for information.

C/- DM(V) BRC for information.

C/- DM(W) BRC for information.

No. 4/6/8.

Copy to Branch Secretary, W.R.E.U. Anand for information.

AEN's Office,
Anand. Dt. 27/10/88.

AEN ANAND

At.

Western Railway.

AEN's Office,
Anand. Dt. 21/4/88.

No. A/6/8.

OFFICE ORDER.

Sub: Grant of scale rate to Casual labour as
group co-ordination under CPWI(I) Anand.
Ref: DEM(E) BRC's No. E/E/615/23/1 dt. 22/2/88.

In terms of letter quoted above the following staff are granted in semi-skilled grade 210-270(R) and 800-1150(RP) from the of, shown against each staff as detailed below. It may be brought to the notice to the staff that this will not confer any claim or right of such staff for regular absorption in the grade Rs. 210-270(R)/800-1150(RP).

Sr. No.	Name of staff, S/Shri.	Designation.	Revised Grade.	Revised grade effective from	Remarks
1.	Qilab Kala	Semi-skilled C.L.	210-270(R) 800-1150(RP).	Not due.	
2.	Mithu Kala	-do-	-do-	21/12/84	
3.	Ramsing Kala	-do-	-do-	21/10/84	
4.	Pratap Puna	-do-	-do-	26/11/85	
5.	Puna Dalu	-do-	-do-	25/6/84	
6.	Sabur Kala	-do-	-do-	21/2/85	
7.	Anra Erik Rhina	-do-	-do-	Not due.	

Sd/-
AEN Anand.

C/-CPWI(I) Anand for information. This has reference to
risk letter No. E/367/1 dt. 26/11-2/3-88. The revised grade may
be given to the staff with arrears & this office advised.

C/-DEM(E), DEN(V) BRC. DEM(WA) BRC for information.

No. A/6/8.

Copy to Br. Secy. WREJ Anand for information.

AEN's Office,
Anand. Dt. 27/10/88.

AEN ANAND

Recd. G
J. K. S.
A

A2 KB

12

WESTERN RAILWAY.

Headquarters Office,
Churchgate, Bombay.
Dt. 7th April, 1968.

No. 615/O.

The FA&CAO(ADM)/CAU/CE(S&C)/CSO/Chief Cashier-CCG.
Dy. CAO(TA)-AII, AAO(S&C)-KTT, SAC(FTA)-DLI, AAO(W)-AII.
SAC(S&C)-AII/KTT/KXX UD, AA-O(W&S)-PI/DHD/SBI/KTT/BVP.
EHC(C)-ADI/XEN(C)-CCG/ADI/GGC/RTM/KTT/GUNA/DHG/MALX/GIM/ABR/DHD.
XEN(Regirdering)-WJN/XEN(C) (Car Shed), BCT/XEN(T)-ADI at ABR.
W (Engg.)-SBI, DSTE(C)-KTT, ASTE(C)-ADI, ASTE(W)-SBI, ASE(W)-AII.
Dy. CBE(W)-AII, WM(C)-PL, WM(L)-DHD, W-PRTN/BVP/KTT, AWM(L)-JP.
DHE(W)-PL/AII/DHD/BVP, DEE(PR) AII, DMO(W)-DHD, PSTS-AII, PZTS-UD.
DCOS-FX/SBI/AII/DHD, AS OR(A/W)-MX, ASOR(Trg).BL, COM-AII.
M.S. JHH-BCT, GS-CCB.
DS/DAO/ASOR-BCT/BRC/RTM/KTT/AII/JP/RJT/BVP.
SPO-I/II/III/IV/Ed. PA/CPO, APOI/II/III/IV/V/VI, Supdt.(E).
CE-EU/II/III/IV/VII/LX/XI, HC.EV/VII/VIII(Pay sheet), XIII/
CBE/CE/CBE/COS/CSTE/CCS=CCG. XV, Supdt.(Hindi).
Dy. CEs(N)/(S)/(E)/(W)/(C)/(G)/(Br).CCG.

Sub: Casual labour.- Employment of -

A copy of Board's letter No.L(NG)62CL/36 dated 16.1.63 circulated under this office letter of even number dated 25.1.63 is enclosed for ready reference. It will be seen that in terms of that letter casual labour can be absorbed in regular vacancies in skilled grades to the extent of 25% of the vacancies reserved for departmental promotees from unskilled and semi-skilled categories.

Files 41679-8
A doubt has arisen whether the percentage of 25 referred to in Board's letter is necessarily to be adhered to even when departmental candidates are available. It is clarified that only in cases where casual labourers are engaged in work-charged establishments and if they are continued to work for very long periods, they can be promoted to the extent of 12½% of the total vacancies (i.e. 25% of the 50% for rankers) and this too in cases where such casual labourers had been promoted to semi-skilled, skilled and highly skilled categories due to non-availability of departmental candidates. It will thus be seen that two conditions are essential for absorption of casual labour against 12½% quota i.e. (i) departmental candidates should not have been available, and (ii) therefore, casual labourers should have been promoted to skilled or higher grades. In other words, it is stated that casual labourers are not to be absorbed against working post as a matter of course against 12½% of the vacancies unless due to non-availability of departmental candidates, casual labourers had been promoted to work in semi-skilled skilled and highly skilled grades in the respective Units.

DS(E)KTT 3. This supersedes Shri Khemchandra's D.O.letter No.E.890/5/15 only. dated 31.5.63 to Shri Satsangi with reference to the latter's D.O.letter No.EE/890/12/1 of 3/5/63.

F-1-b
for General Manager(E).

malant.26/68.

13
Copy of Railway Board's letter No.E(NG)6201/36 dated 16.1.63
to the General Managers, All Indian Railways.

Absorption of Casual labourers in regular vacancies.

Instances have come to the notice of the Board where casual labourers engaged in work-charged establishments of certain departments get promoted to semi-skilled, skilled and highly skilled categories in due to non-availability of departmental candidates and continue to work as casual employees for very long periods. On their absorption in regular posts they again start from unskilled posts and thus sustain monetary loss. To obviate such hardships the Board have decided that such casual labourers should be straightaway absorbed in regular vacancies in skilled grade (provided they have passed the requisite trade tests), to the extent of 25 per cent of the vacancies in ~~unskilled and semi-skilled~~ reserved for departmental ~~promotions~~ promotees from the unskilled and semi-skilled categories. The staff so absorbed in skilled categories will take their seniority below the departmental promotees.

(This disposes of Dy.CPO Southern Rly.'s D.O.letter No.P(S)
535/1/20 dated 24.9.1962).

*asked
J. Miller
Per*

R.B.E. No. 339/85

Subject : Casual labour-scale of pay applicable to skilled casual labour.

No. E(NG) II/84/CL/58, dated 20-12-1985

Attention is invited to the provisions in para 2511 of IREM, which lay down *inter alia* that on attaining temporary status, casual labour on the open line will be entitled to payment in regular scales of pay. Casual labour engaged on projects (also known as project casual labour) are also entitled to temporary status in accordance with the orders applicable to them. Such labour are given consolidated wages at the minimum of the scale of pay when they complete 180 days of continuous employment.

2. A question has now been raised by some of the Railway Administrations whether the scale of pay as applicable to the skilled artisans can be given to casual labour employed in skilled categories when they attain temporary status. The Department of Railways have considered the matter. They have now decided that where casual labour are engaged in skilled categories, the relevant scale for purpose of determining their wages in terms of the extant instructions as cited above will be that applicable to skilled artisans viz. Rs. 260-400 (RS). Thus, on attaining temporary status (in terms of extant orders), they should be paid in the scale of Rs. 260-400 (RS). Similarly in the case of project casual labour engaged in skilled categories who have completed 180 days of continuous service, consolidated wages (for purpose of the instructions contained in this Department's letter No. E (NG) II/82/LG-5/4 dated 6.6.1983) would mean the minimum of the scale of Rs. 260-400 (RS) plus DA thereon. Payment in or with reference to this scale will, however, be admissible in individual cases only from the date an individual casual labour employed in a skilled category has passed the prescribed trade test if the same happens to be later than the date of attaining temporary status or date of completion of 180 days of continuous employment, as the case may be.

3. The Department of Railways wish to take this opportunity to advise the Railway Administrations that they should observe the instructions contained in this Department's letter No. E (NG) II/71/CL/83, dated 11.1.1973 (Copy enclosed for ready reference) in the matter of engagement of casual labour in the skilled grades. They have also decided that, in future, for engagement of a person as a casual labour in the skilled grades personal approval of an authority not lower in rank than a Divisional Engineer should invariably be obtained. They further desire that the number of persons engaged in this manner (in skilled categories) should be kept to the absolute minimum. They would like Officers of the level of Divisional Engineers in the open line as also projects to keep particular watch on this matter.

4. Past cases decided otherwise or in terms of final orders of a court of competent jurisdiction, shall not be re-opened. Where, however, a person is continuing as a casual labour in a skilled category on the date of issue of these orders, this case will be regulated prospectively in terms of the provisions herein contained.

5. This issue with concurrence of the Finance Directorate of the Department of Railways,

R.B.E. No. 3

Copy of letter

Subject

On the JCM, to Bd

(i) P
U
M
d
p
e(ii) N
t
t
t
t
t
t(iii) A
w
t
s
b
l
d
i
t
b
a

2. Ref

Subje

Refer subject.

2. At
(Railway B
Lecturers
invited to d
honorary

(i) 1

20-12-85
Subd
Ac

AR ✓ Pay 55

1457 H. 9.62 L. AY

Divisional Office, Vadodara.

Dated: 19/14/1984

70

GM(7)/CCG.

AENS-(I) & (II) ADI, DHG AND GDA(I) & (II) DEC
(I) & (II) BH, (TR) BAC, MEN, ...

EWIS - BRC(P) BRGY DL CGP SVL GDA AOX URN KSD RJD

ND MHD ADI VG DMC (BG) MAIR (P) (I) & (II) JNND PTD

10WS-BRC(P) BRCY PRTN (RSC) PRTN DB GDA TBA MYG BH JMB

ANND NB ADI (W&D) ADI (C) ADI (S) ADI (M) DB GDA TBA MYG IBH JMB

.SBI VG HVD FBIS-BH BRG (I) & (II) KKF (BG) SBI (GNC)

C/- Sr. DPO SB DISTRICT (I) & (II) ADI

SR.DPO SR.DSTE DST(E) MS SR.DAO SR.DME(L) SR.DME

WM PRTN XEN(BR) XEN(TH) SR. DEE(P) DEE(TRS) BRC

ARS ADI XEN(C) VSDF BBC ASTF (MID DEFN

DEE(C)TRD. DRC DEE(C) DRC YEN(REF) DRC GEN(REF) DRC

XEN(S&C) (I) & (II) INC DSTE(C) PI PRC

PRINCIPAL (RSC) BRG

OS(W) (O) (M) (STOR) (S) (W/6) - (W/6) (G)

CC MD-DETR D1 & D2 HC/WA (Elect.)

Secretary- WREU & WRMS BRC ALC AJMER & LEO(C) BRC ALC-ADI

Sub: Regulation of Casual Labour Rates -Grant of Special Daily Allowance effective from 1.4.84 for Scheduled employment on the construction or maintenance of roads or in building operations Baroda Division.

Ref: 1) This office letter No. F, 615/1/1WA-79-80 of 7.12.79 and followed by letters of 16.1.80, 25.4.80, 25.7.80, 3.11.80, 23.4.81, 20.11.81 and 2.11.82 and 3.5.83 and 28.10.83.

1) - The revised rates of Special daily allowance with effect from 1.4.1984 will be Rs.8.25 per day and Rs.214.50 P.M. in addition to the basic rates for different categories of Labour governed by scheduled employment.

2. According to the above the daily allowance will be Rs.8.35 less Rs.7.05 already granted i.e. Rs.1.20 Ps per day on the rate prevailing during the period from 1.10.83 to 31.3.84 for each categories.

3. The ELAs may therefore be submitted along with the due and drawn statement based on the following rates.

The following rates will therefore be effective from:
1.4.1984.

Sr. No.	Categories	Zone No. 1		Zone No. 2	
		M.W. Act	HER	M.W. Act	HER
1.	Skilled	Rs. 16.75	Rs. 14.51	Rs. 15.90	Rs. 13.78
2.	Semi-skilled	Rs. 14.66	Rs. 12.69	Rs. 14.00	Rs. 12.13
3.	unskilled	Rs. 13.76	Rs. 11.91	Rs. 13.75	Rs. 11.91

Please acknowledge receipt.

For Divisional Railway Manager
(W/Acs)- VADODARA.

RAJ*194

Tele E Corp
J. Edgar
A

62
16
No.E615/0 Vol.IV

WESTERN RAILWAY

Headquarter Office,
Churchgate, Bombay.

To

All concerned

11/5/1973.

Sub:- Employment of Casual labourers on Railway.

A copy of Railway Board's letter No.E(NG)II-71CL/83 dated 11.5.1973 on the above subject, is reproduced below for information, guidance and necessary action.

Encl: 1 (Reproduced below)

[Signature]
for General Manager (E)

Copy of the Railway Board's letter No.E(NG)II-71CL/83 dated 11.5.1973 from Dy. Director Establishment, Rly. Bd., to the General Managers, All Indian Railways and others.

Sub:- Employment of casual labourers on Railways.

On the recommendations made by the Departmental Council under the J.C.M., the Board have decided as under:-

- (i) Period of 15 days' authorised absence permitted under para 2504 of the Indian Railway Establishment Manual, during a spell of six months' continuous employment may include an absence upto three days at a time on account of personal reasons, i.e. such three days period should not constitute a break for attaining temporary status even though the absence is not authorised.
- (ii) Note 5 below para 2501(b)(iii) of the IREM already provides that the term "same type of work" should not be rigidly implemented so as to cause undue suffering to casual labourers because of a slight change in the type of work in the same unit. It is again emphasised that the term "same type of work" should be implemented in spirit as well as in letter and no casual labourer should suffer in this matter by rigid interpretation of the term.
- (iii) Appointment of casual labourers in the semi-skilled and skilled grades without a trade test should not normally be made. In order to ensure that only trade-tested persons are employed as casual labourers on skilled and semi-skilled grades, a panel should always be maintained by the open line to cater to the needs of employment of casual labourers in semi-skilled and skilled grades. In cases, where no panel of suitable candidates is available, casual labourers may be appointed in skilled and semi-skilled grades without a trade test but it should be ensured that their suitability is adjudged well in time before they attain temporary status.

Receipt of this letter may please be acknowledged.

[Signature]
Ch. Secy

[Signature]
11/5/73

[Signature]
Rab. Secy
Ac

All Subordinates including AEN's

Engg. Deptt. BRC. *Pen - A N V D*

Sub : Non Payment of Mate in scale Rs.225-308 to Gang Staff working under PWI (PQRS) BH.

Ref : This office letter No. even dated 15.4.87 and H.Q. letter E/E/615/5/2/1 Dated 3.4.87 (Copy enclosed)

17

.....

With reference to the above quoted letter under which a copy of H.Q. Office letter No. EE/615/5/2/1 dated 3.4.87 has been sent with the clear instructions that all the Casual Mates have to be paid in grade in which they were engaged.

It is noticed that you have not arranged the Payment as per instructions nor you have submitted Supplementary Paysheet till today. This item was discussed with both the trade Union and it was decided that HQ orders are to be implemented and payment is to be made from the month of July, '87 alongwith the arrears. You are requested to please submit the paysheet alongwith your remarks by or before 25.09.87 as to why you have not submitted supplementary paysheet in favour of Mates. A copy of this letter dated 15.4.87 is again enclosed herewith for your necessary action.

Yours sincerely,

Encl : MX 2

C/- Sr. DEN(I), (II), (III), DEN(IV), (V) for inf.

Sr. DEN-II(E) BRC
and (PQRS)

A copy of Sr. DEN-II(E) BRC's letter No. EE 615/1/23 Vol. (I) dtd. 15.4.87 addressed to PWI PQRS BH.

Sub : Non-payment of mate pay in scale Rs.225-308(R) to gang staff working under PWI (PQRS) BH.

Ref : Your letter No. E/3122/18 dtd 7.2.87 and AEN II BH letter No. E 615/1 dated 25.2.87.

.....

The above matter was referred to H.Q. vide this office letter No. E/E/615/1/23(1) dated 2.3.87 and 24.3.87 for clarification. CE CCG's letter is reproduced for giving reply and arranging payment.

"Please quote authority under which casual mates have been recruited under PWI(PQRS) BH explaining why regular gangmen could not be promoted. Responsibility should be fixed in this regard. As regards payment to the labour it is not understood under what rules they are being paid as casual gangmen. They have got to be paid in the grade in which they are engaged."

Please treat this as Most urgent.

.....

A copy of CE(E) BRC's letter No. E/E/615/5/2/1 dtd. 3.4.87 addressed to DRM(E) BRC.

Sub : As above.

Ref : Your letter No. EE 615/1/23(1) dt. 24.3.87.

.....

Please quote authority under which casual mates have been recruited under PWI (PQRS) BH explaining why regular gangmen could not be promoted. Responsibility should be fixed in this regard. As regards payment to the labour it is not understood under what rules they are being paid as casual gangmen. They have got to be paid in the grade in which they are engaged.

*10/8/87**10/8/87*
10/8/87
10/8/87

A3

18

ANNEXURE - B.

Copy of CE(E)CCG's letter No.E/E/615/5/2/1 dt.24.12.37,
addressed to DRM(E)BRC.

Sub: Non-payment of mates pay in Sc.B.950/1500
to gangstaff working under PWI(PQRS)BH.
Ref: Your letter No.E/E/615/1/23(i)dt.28.10.37.

...

In this office decision vide letter of even
No. dated 3.4.37, it was clarified that casual staff have
got to be paid in the grade in which they are engaged.
From your office letter quoted above, it is seen that they were
not engaged as mates and are not performed the duties of mates
as stipulated in paras 149 to 166 of the Indian Railway
Permanent Manual. If it is so, the question of payment to
Mates grade to them does not arise. Further, as mentioned in
your letter, they are already being paid slightly higher
than the casual gangmen for coordinating the work of the gang.

Sd/-
for CE(E).

2nd Copy
Shub
Ac

Spore COPY

13 19

WESTERN RAILWAY

No.E/E/615/1/23(1)

Divisional Office,
Baroda.

Dt : 22-2-1988.

10,

All PWIs, AENs.

C/- Sr.DEN/II,III, DEN(TR), DEN/IV,V, OS/WA, Sr.DAO.

Sub : Grant of scale rate to casual labour
working as group coordinator under PWI.

Ref : (i) Informal item No.1/37/87 of WHMs.

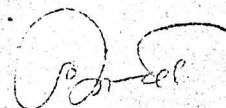
(ii) Informal item No.118/86/BH/ENG/41/86
of W.R.E.U.

In terms of CE(E)/CCG's letter No.EE/615/5/2/1
dated 3-4-87 and 24-12-87, such of the casual labour,
who, were either initially engaged, or subsequently,
charged in the semi-skilled grade, should be paid in
the scale rate of 210-270(R)/800-1150(RP) from the date
they attained temporary status, instead of the grade
200-250(R)/775-1025(RP).

Action may be taken accordingly.

This supersedes all previous communications on
this subject.

It may however be noted that this will not *Confer*
~~confirm~~ any claim or right of such staff for regular
absorption in the grade of Rs.210-270(R)/800-1150(RP).



DEM (E) BRC.

Copy to Divisional Secretary WRM S & WREU BRC in reference
to their Informal items referred to above.

File Copy
Shree
AO

DEPARTMENTAL REMEDY.
DEMAND OF NATURAL JUSTICE

NOTICE

FROM : TEMPORARY STATUS
STATE OF BARODA DIVISION.

13.5.89

To,

DIVISIONAL RAILWAY MANAGER
(ESTABLISHMENT, ENGINEERING)

Western Railway Ratapagar
BARODA. 390004

Respected Sir,

Sub: This humble application is for
for demanding Equal pay for Equal work.

REF: Western Railway Employees union,
informal item No. 118/86.

We the undersigned beg to submit the following:-

1. That we are working continuously as Temporary status Mate in different stations shown against our names.
2. Though we are shouldering the Higher responsibilities, we have not been paid the wages equal to

contd....2.....

regular Rate i.e in grade 950-1500(RP) .

3. We draw your attention of your office letter No. E/E/615/1/23/1 dated 22.2.88. We have been granted ~~ing~~ in grade 800-1150(RP) instead of 900-1500(RP), as group-co-ordinator, there is no such post prevailing in this Railway hence cannot be acceptable.

3.1 "edraw your kind attention in the Fundamental
FUNDAMENTAL RULES 9.31.c reproduced below:-

" A POST IS SAID TO BE ON THE SAME TIME
_SCALE AS ANOTHER POST ON A TIME _SCALE
IF THE TWO TIME _SCALE IF ARE IDENTICAL
AND THE POSTS FALL WITHIN A CADRE, SUCH OR
CLASS HAVING BEEN CREATED IN ORDER TO FILL A
ALL POSTS INVOLVING DUTIES OF APPROXIMATELY
THE SAME CHARACTER OR DEGREE OF RESPONSIBI-
LITY, IN A SERVICE OR ESTABLISHMENT OR
GROUP OF ESTABLISHMENT, SO THAT THE PAY OF THE
THE HOLDER OF ANY PARTICULAR POST IS DETERMINED
BY HIS POSITION IN THE CADRE OR CLASS AND NOT
BY THE FACT THAT HE HOLDS THAT POST. "

3.2 It is an admitted fact that we are doing the same job as Regular Mate, in the above said FR it is categorically state that the pay of holder is determined by his position and not by the fact that he holds the post. It is also clarified that all posts involving duties of approximately the same character or degree of responsibility, and we are doing the same work as MATE in regular Cadre and there is no post designated as group Co-ordinator in the regular-Cadre.

3.3 One of the Highest authority speaks that even one has accepted the employment on unequal terms, the state should not deny their basic rights of EQUAL TREATMENT. It is against this background that the principle of EQUAL pay for Equal work has to be construed in the first place. Secondly this principle has no mechanical application in every case of similar work. It has read into Article 14. Here the authorities has termed as group Co-ordinator at their SWEET-WILL and pleasure hence cannot be tenable in the eyes of LAW

4. In the light of the above we once again request your kind Honour to grant the following reliefs;-

(a) To grant Tem/orary status in grade 260-400 (RP)/950-1500(RP) and flowing consequential beflfits the there of.

(b) To dicide this issue on or before 15.6.89.

5. PLEASE NOTE

We would mcke it clear that, if satisfactory reply is not recei ed on or before 15th dcy of June 1989 we will be constrained to approach the Highest authority for want of JUSTICE, withour any further notice.

Thanking you.

Toyrs faithfully,

(Shri

and others as attached sheet

Copy to;-Divisional Secretary WREU BARODA.

CPWI(R) Anand → *[Signature]*
19/5/89
for C. S. R. / An

(1) SUNDAR. GORDHAN

(2) PARTHI. NANJI

4220 11/13

(3) BHOORKA RAMJI

(4) CHAGGAN VEERSINGH

(5) SAMNA TEERSINGH

(6) SUKHIA LALA

(7) NARU KASA

(8) JEETRA SONIA

(9) BASSU HANJI

(10) SAMSU SAKARIA.

(11) TEJA TIRTA HARI.

(12) MOOLA GEMA

Moola Gema

(13) NARSINGH- NANA.

Narsingh Nana

(14) PARWAT. BHAILA

(15) RAMAN. DESAI

6) SANTA RAISINGH

25

6

17. BHAVLA. GAJA

18 SONIA SALIA

19 KESARSING POONIA.

Kesarsing Poonia

20. MITHU. KALU

21 KIRIT KANTILAL

Kirit Kantilal

Tree Co.
Guthrie
AC

26

ONE
COVER

SRI. BHIKHUBHAI. M. PATEL

Sr. D P O.

DIVISIONAL RAILWAY MANAGER

WESTERN RAILWAY

PRATAPNAGAR

V A I D O D A R A

390004



Relly Corp
Prapatnagar
Ac



WESTERN RAILWAY

पश्चिम रेलवे
Western Railway

मंडल कार्यालय, बड़ोदरा
Divl. Office, Baroda.

AS

27

Dated: 29/9/1989.

No. 47703 (P) (R) ANN D.

सिटी
Memorandum

विषय:- रेल सेवा में कार्यरत वेतन नियम 1986-वर्तन का विचारण
1986-सिद्धित इजी. पिनाम- बड़ोदरा मंडल

Sub: Railway Service (Revised Pay Rules) 1986
Fixation of Pay 1986 - Civil Engineering
Department - Baroda Division.

मुनि आर आणद तथा रेपनि आमोद के अदीन कार्यरत निम्नलिखित कर्म. का वेतन 1986 के

The pay of the following staff working under CPW (R) ANN D and PWI (R) have been fixed in Revised Scale of pay 1986 and same is certified by Sr. D/O BRC. एम्प्लॉयमेंट वेतनमान में विचारित पाय आता है निम्नलिखित व निम्नलिखित इजी. पिनाम पाय आता है।

Sr. No.	सिटी	Designation	Scale of Pay fixed	Rate of Pay.	Date of increment.
No.	S/ Shri	tion and Stn.	Pay. (R)	1-1-86	next
	हस्ताक्षर	पद व स्टे.	(RP)	1-1-86	के
1.	Pardhi Nanji	Mate at CPW (R) ANN D.	950-1500	950/-	970/- 1-1-87
2.	Mangla Dala	T.S.G. Man CPW (R) ANN D.	775-1025	799/-	811/- 1-1-87
3.	Vedra Tita	do do	do do	799/-	811/- 1-1-87
4.	Vedra Dhulu	do do	do do	799/-	811/- 1-1-87
5.	Mohd. Limji	do do	do do	799/-	811/- 1-1-87
6.	Kala Nanka	do do	do do	799/-	811/- 1-1-87
7.	Gaj Singh Man Singhji	do do	do do	799/-	811/- 1-1-87
8.	Smt. Kamali Rawalu	do do	do do	799/-	811/- 1-1-87
9.	Chandu Gulab	Sr. G/Keyman PWI (R) X.	800-1150	965/-	980/- 1-3-86
10.	Shiva Bhavan	do do	do do	965/-	980/- 1-3-86
11.	Chouh Bijal	do do	do do	965/-	980/- 1-3-86
12.	Ghagan Mathur	do do	do do	975/-	980/- 1-3-86
13.	Baboo Kishav	Sr. G/Man	do do	965/-	980/- 1-3-86
14.	Ganpat Wajasing	Sr. G/Keyman	do do	965/-	980/- 1-3-86
15.	Ramesh Hamibhai	K/Man	825-1200	980/-	1000/- 1-3-86
** 16.	Sorasing B.	Sr. G/Man PWI (R) BH	800-1150	960/-	dt. 1-1-86
				965/-	dt. 1-4-86
				950/-	dt. 1-7-87
				995/-	dt. 1-7-88

Retired on 31-5-89.

They forwarded for inf. and n/action and necessary payment may please prepare as early as possible.

** PWI (R) BH may please be prepare due and draw statement and set to OS/S Settlement, CC/P/Bill, Sr. D/O BRC, immediately.

for DRA (R) BRC.

To

CPW (R) ANN D, ANN ANN D.
PWI (R) BH, PWI (R) X ANN BH. Sr. D/O BRC.
CC/Pay Bill, I&G File, S/Sheet Clerk.

.....
22/265/ANN ANN D
22/265/ANN ANN D

प्रति सूचना एवं आवश्यक कारवाई हेतु अग्रिम है तथा जितनी जल्दी संभव हो सूचना वेतन बनाया जाए।

रेपनि ब. का.। प्रत्येक सूचना बनाया का निवरणपत्र तैयार कराएं तथा कार्यालय/स्वयं/विपक्ष, मुनि/वर्तमान, वमोजि बड़ोदरा ओ तत्काल भेजें।

ओ रेपनि बड़ोदरा

T. K. G. G.
Shri
A

2/1000/77

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O. A. NO.221 OF 1991

Mulla Gema & Ors.....

... Applicants

V/s

Union of India & Ors.....

... Respondents

a.6

WRITTEN STATEMENT ON
BEHALF OF RESPONDENT
NO.2

The respondent No.2 humbly begs to file
written statement to the application as under:-

1. Contents of paras 1 & 2 need no reply.
2. Contents of para 3 is procedural and need no reply. However, it is submitted that the order against which the applicants have filed the present application is not understood. It is not understood whether the applicants challenged the letter dated 22.2.88 or 29.9.89. It may be stated that the applicant No.1 is not shown in the impugned order dated 29.9.89 and as such has no right to challenge the order dated 29.9.89 since he is not an affected person.
3. Contents of para 4 need no reply.
4. Contents of para 5 are not true and are not

Dr. A. K. Singh
9/10/77

admitted. It is not admitted that the present application filed by the applicants is within the period of limitation prescribed under section 21 of the Administrative Tribunals Act, 1985. It is submitted that the applicants have ~~not~~ Challenged the order dated 22.2.88 issued by the Divisional Office, Baroda, in the present application, which is filed by them on or about 25.9.90. The present application has been filed more than one year after the issue of order dated 22.2.88 and as such the same is time barred. The applicants have not filed any application for condonation of delay in filing the original application and as such the same is liable to be dismissed on the ground *A* limitation alone.

5. Regarding para 6.1, it is stated that the applicant No.2 is a Trade Union viz. Western Railway Employees Union and as such cannot be considered as a Citizen of India.

6. ~~10x~~ Regarding para 6.2, the respondents rely on the service particulars of the employees on whose behalf the applicants have filed the present original application. It is not disputed that the employees mentioned in Annexures A & A/2 are working as casual mates and have acquired temporary status on completion of minimum required period for that purpose.

7. Regarding para 6.3, it is stated that casual labours engaged on Open Line are granted temporary status

: 3 :

on completion of 180/120 days continuous working.

The respondents rely on true and proper interpretation of Annexure A/2, dated 7.5.1968. The said letter has been issued on the question of employment and promotion/absorption of casual labours.

8. Contents of para 6.4 are not fully true and are not admitted. It is denied that the applicants on whose behalf the present application is filed and who are working as temporary status mates are shouldering higher responsibilities but they are not being paid equal wages of regular mates i.e. in the scale of Rs.260-400(R)/950-1500(RP). It is submitted that the applicants are working on CTR(Complete Track Renewal) work against other than cadre posts and as such are not entitled to the pay scale of mates working on Open Line. It is stated that the applicants are not engaged as Mates and are not performing the duties of Mates as stipulated in paras 149 to 166 of the Indian Railway Permanent Manual and as such the question of payment of Mates' grade to them does not arise. It is submitted that the applicants/employees on whose behalf the present application is filed are already being paid slightly higher than the casual gangman for co-ordinating the work of the Gang.

It is not disputed that the respondent No.2 vide his letter dated 22.2.88 has granted temporary status to the applicants in the scale of Rs.800-1150(RP) and the Assistant Engineer, Anand has issued Office Orders dated 20.4.88 & 21.4.88(Annexures A & A/1 with the application). It is denied that the employees mentioned in the said two Annexures are granted temporary status in the semi-skilled grade of Rs.800-1150(RP) instead of Rs.950-1500(RP). It is submitted that the applicants were eligible to grant of temporary status in semi-skilled grade of Rs.210-270(R)/800-1150(RP) and not in the skilled grade. The dates from which the revised grades are effective are also mentioned in the said Office Orders dated 20.4.88 & 21.4.88(Annexures A & A/1 with the application). It is submitted that till then the applicants were being paid the salary of gangman only. Arrears on account of the orders dated 20.4.88 & 21.4.88 are also paid to the employees.

The applicants were eligible to grant of temporary status in semi-skilled grade only and not in the skilled grade. The applicants were performing the duties which were not of mates and were only co-ordinating the work of the gang and as such they are rightly granted the semi-skilled grade of

: 5 :

Rs.800-1150(RP). No discriminatory treatment has been meted out to the applicants in granting temporary status in the semi-skilled grade as the applicants and the mates on the Open Line are not similarly situated.

As regards Memorandum dated 29.9.89 at Annexure A/5 with the application, it is submitted that by the said order the employees mentioned therein who were working in the pre-revised scale of Rs.260-400, 200-225, 210-270 and 225-308, etc., were fixed in the revised scale with effect from 1.1.1986. The said order is not an order granting temporary status to the mates. The employees mentioned in Annexure A/5 might be working in the Office of the Assistant Engineer, Anand but that does not mean that the applicants and the mates shown in Annexure A/5 are performing the same duties.

As regards Fundamental Rules 9.31C reproduced by the applicants, the respondents rely on true and proper interpretation of the said Rule. The same Rule defines same time scale. The said Fundamental Rule 9.31C does not assist the applicants.

It is denied that the applicants are doing the same job as regular mates in regular cadre. The definition of the same time scale given in FR 9.31C is not applicable ~~the~~ to the applicants. The applicants are not holding the position of mates and are not doing the work as mate in regular cadre. It is denied that

there is no post in the scale of Rs.800-1150(RP) in regular cadre, which is described as Group Co-ordinator. The fact is that there is a post in semi.skilled grade of Rs.800-1150(RP).

9. Contents of para 6.5 are not fully true and are not admitted. It is stated that Annexure A/3 dated 7/15.9.87 has been issued by the Divisional Office, Baroda, to All Subordinates including Assistant Engineer, Anand stating inter alia that as per headquarter letter dated 3.4.87 all the casual mates have to be paid in grade in which they were engaged. The said letter is not applicable to the applicants. The case of the applicant was rightly referred to the Headquarter Office by the Divisional Office and the letter dated 24.12.87 from the Chief Engineer(E), Churchgate, is produced by the applicants at Annexure B. The decision of the HQ Office conveyed by letter dated 24.12.87 (Annexure A/3) is correct and proper. It is not disputed that there- after the respondent No.2 issued letter dated 22.2.88 in pursuance of which Memorandum at Annexures A & A1 are issued by the Office of the Assistant Engineer, Anand. The applicants are not entitled to the grade of Rs.950-1500(RP).

10. None of the legal grounds of challenge taken by the applicants exists.

(A) Contents of ground(a) are not true and are denied. It is denied that the applicants are being

: 7 :

Paid

wages less than the minimum pay payable under the scale applicable to the regular employees belonging to the corresponding grades. The respondent No.2 has implemented the decision of the Headquarter Office and granted ~~temporary~~ temporary status to the applicants in semi-skilled grade. The Headquarter Office has taken its decision on the facts of the case and the duties performed by the applicants. Since the applicants are not working as mates, they are not entitled to the grade of Rs.950-1500(RP). The applicants cannot compare their case with regular mates or temporary status mates.

It is denied that the applicants are rendering the same kind of work which is being rendered by regular employees working as mates. The respondents rely on true and proper interpretation of Article 38(2) of the Constitution of India. The provisions of the said Article are not applicable to the facts of the case. Article 37 of the Constitution of India is also not affected. The applicants on acquisition of temporary status in the scale of Rs.800-1100(RP) are being paid the scale rate, increment, leave, passes, etc., which are admissible to them under the rules. There is no denial of minimum pay to the applicants and there is no exploitation of labour by the respondents.

The respondents are not taking any advantage of this dominant position and are not complying any worker to work on starving wages. The averments in para

under

under reply that the applicants are being paid less than the minimum pay and are being exploited, etc., are not true and are denied. There is no violation of Articles 14 & 16 of the Constitution of India or Article 1 of the Industrial Covenant on economic and social and cultural rights, 1965.

The judgements of the Hon'ble Supreme Court reported in (1) Randhirsingh V/s Union of India & Others-1982(3) SCR 298= 1982(1) SCC 618, (2) D.F.G.L. employed under P. & T Department & Others V/s Union of India & Others, 1988(2) SLJ 31(SC) and (3) Dhirendra Shamoli & Another V/s Union of India & Others-1986(1) SCC 637 on the question of equal pay for equal work are not applicable to the facts of the present case.

Annexure A/5 is a Memorandum fixing the employees in the revised scale. There is no violation of principles of Natural Justice.

(B) Contents of ground(b) are not true and are denied. The respondents have implemented the decision of Headquarter Office conveyed by a letter dated 24.12.87. The respondent No.1 never ordered respondent No.2 to pay to the applicants in the scale of Rs.950-1500(RP). The respondent No.2 has not exploited the applicants by using colourable exercise of power. It is denied that the decision dated 24.12.87 conveyed by respondent No.1 is without application of mind, arbitrary or without showing any reasons for reversing

: 9 :

the earlier order as alleged. The decision has been taken after full application of mind.

There is no violation of principles of estoppel or promissory estoppel. The contention is baseless.

The pay of the applicants is not minimised^A is being ordered to be paid correctly and in accordance with the grade to which they are eligible. No opportunity of hearing is required to be given to the applicants and there is no violation of rules of natural justice. No benefit which is granted to the applicants is being taken away without hearing them and there is no violation of Article 311(2) or Article 39(a) or Articles 14 & 16 of the Constitution of India. The applicants are being paid the wages for the post/work on which they are working. The ground challenging the action on the principle of estoppel or promissory ~~estop~~ estoppel is misconceived.

11. Contents of pars 7 & 8 need no reply.

12. The applicants are not entitled to any of the reliefs claimed in para 9 of the application.

In fact the present application filed by the applicants in this Hon'ble Tribunal is not maintainable and proper remedy for the applicants is to approach the Industrial Forum.

13. The applicants are not entitled to any interim order as prayed for in para 10 of the application.

14. There is no para 11 in the application.

: 10 :

15. Contents of paras 12 & 13 need no reply.

In view of what is stated above, the application may be dismissed with costs.

VERIFICATION.

I, B.N.Meena, age about 35 years, son of

Senior

Shri R.N.Meena, working as Divisional Personnel Officer, Western Railway, Baroda and residing at Baroda do hereby

state that what is stated above is true to my knowledge and information ~~and the~~ received from the record of the case and I believe the same to be true. I have not suppressed any material facts.

Baroda

Dated: 28.5.1993

Senior Divisional Personnel Officer,
Western Railway, Baroda.

JW 9.6.93

✓ Reply/Rejoinder/written submissions

filed by Mr. N.S. Shevale

learned advocate for petitioner /

Respondent with second set.

Copy served/not served & other side

DL H-6-93 Dy.Registrar C.A.T (I)
A'bad Bench
CBhayan

~~SECRET~~ / Registered with ~~SECURITY~~
Used by Mr. K. K. Sullivan
Served advocate Mr. J. H. H. H.
Dependent with second col. and
Copy served/not served & other side
for time 17=40
✓ 06/13 BY REGISTER C.A.T. ID
K. K. Sullivan

34

judgement of the Apex Court reported in AIR 1989 SC
P. 10 in the case of S.S. Rathod V/s. Union of
India.

It is further stated that assuming without admitting that the application is filed within the prescribed period of limitation of one year even they the cause of action is to be examined i.e. of equal pay for equal work and the respondents themselves have given the revised pay benefits after three years of their being absorbed as gangmat i.e. in the year 1985 and are continued since then continuously and till they are given the pay of the gangemat in the scale of 950-1500. The cause of action amounts perpetual cause of action and therefore, the same will not be hit by the period of limitation. Hence the statement made in para 4 is denied.

3. In reply to para 6, the same is not denied. But the respondents be called upon to produce the service particulars of the employees/ applicants mentioned in Annexure- A & A1.

4. In reply to para 7, the applicants reserve their right to file further reply as and when necessary.

5. In reply to para 8, the same is denied hereby. The respondents themselves have admitted that the applicants are working as temporary status mats and

35

are denying the sholder in higher responsibility. The respondents can take the higher responsibility work from the applicants but on their failure to take the higher responsibility work, the applicant cannot be denied the scale of pay of mats.

The applicants state that though the respondents have stated that the applicants were not sholdering the higher responsibility work to their statement is incorrect and wrong. On the contrary, the applicants are sholdering the higher responsibility work and from some of the applicants, the respondents have even taken the work of the permanent mistri and Inspector of works when the tracks were being changed from Woolen sleeper to cement concrete sleeper. The said work was to be completed within the stipulated time limit and, therefore, responsibilities were higher in nature. Even otherwise,. it is not for this Hon'ble Tribunal to decide from the pleadings whether one was sholdering the higher responsibility or not but what is required to be examined by the Hon'ble Tribunal is whether they were working as mats or not. Once it is admitted by the respondents that they were working as temporary status mats , the pay of temporary status mats cannot be different from regular status mats. Therefore, the applicants made made out the case for equal pay for equal work. It is further denied that the applicants are not performing the duties of mats as stipulated in para 149, 166 of

36

IREM. The applicants in fact have worked and are working as mats and, therefore, the statement of the respondents is denied hereby. It is further stated that there is no post called as group co-ordinator and once it is admitted that the applicants were performing the duties of mats, then the applicants cannot be deprived the scale of mats by giving slighter higher pay than gangman and, therefore, the action and orders of the respondents by granting the lower scale gangmats is arbitrary and discriminatory and is violative of Articles 14 and 16 of the Constitution of India. The applicants submit that since they are not given the scale of semi skilled gangman and, therefore, the explanation given by the respondents is not tenable. It is further stated that the respondents without verifying the working of the applicants and without verifying the Annexure- A5, have made a hypothetical statement that the employees mentioned in Annexure- A5 might be working in the office of the Assistant Engineer, Anand. The respondents also failed to understand the Rule 9.31 referred and relied by the applicants. The decision given by the head quarter office dated 24.12.1987 is incorrect and without any basis not referring any rules.

6. In reply to para 10, the explanation given by the respondents with regard to the legal grounds are not just and proper, the applicant will rely upon on these grounds for judicial interpretation at the time of hearing.

7. In view of the aforesaid explanations and statements made hereinabove and any argument canvased at the time of final hearing, rest of the statements made in para 12, 13 is denied hereby and application is required to be allowed with costs by granting the reliefs as prayed therein, in the interest of justice.

VERIFICATION

gny
a

I, Mula Gema, aged adult the applicant herein do hereby solemnly verify that what is stated hereinabove is true to the best of my own knowledge, information and belief and I believe the same to be true.

Ahmedabad.

Date :

11/2/2000
Teubfuley
My
in

