

8

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

OA Nos. 1431, 1432, 1433, and 1441 of 2003  
Cuttack, this the 27th day of May, 2008.

C O R A M:-

THE HON'BLE MR. JUSTICE K.THANKAPPAN, MEMBER(J)  
AND

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER(ADMN.)

H.K.Jena & Ors. .... Applicants

-Versus-

Union of India & Ors. .... Respondents.

(For Full details, see the enclosed cause title)

By legal practitioner: M/s. M.R.Panda, M.K.Nayak,  
B.P.B.Bahal, C.Mohapatra, Counsel

By legal practitioner: Mr.U.B.Mohapatra, SSC.

O R D E R

MR. JUSTICE K. THANKAPPAN, MEMBER (J):

Though these four cases were heard one after the other, since identical question of facts, situation and law involved in these four cases, these are disposed of through this common order.

2. Common question involved in these four Original Applications is as to whether the Respondents have fully complied with the directions of this Tribunal issued in Original Application Nos. 20/89, 775/95, 776/95 and 118/2002 in the light of the compliance order under Annexure-R/2. In all these four cases, Applicants commonly prayed as under:

(M)

- 2-
- “(i) Order directing the Respondents to produce the relevant records along with returns;
  - (ii) Order directing the respondents to allow the pecuniary benefits granted under the scheme of temporary status employees;
  - (iii) Order allowing all or any other relief as would be available to the Applicant under law;
  - (iii-a) Direction directing the respondents to consider the direction of Learned Tribunal dated 21.12.1989 and quash the order of rejection dated 31.12.2003 (Annexure-4) passed by Respondent No.1.”

3. To support the above prayers, Applicants relied on the orders of this Tribunal passed in OA Nos. 20/89, 775/95, 776/95 and 118/2002. Common case of Applicants was that since they were working as Paltry Attendant under the Director, Central Poultry Development Organization, Bhubaneswar, Dist. Khurda (Respondent No.2), on casual basis since 1982, they were entitled to regular scale attached to a post and consequently regularization in service from the date of their initial engagements. On considering the contentions raised by the parties in OA No. 20 of 1989, this Tribunal in its order dated 21.12.1989 disposed of the matter relevant portion of which is quoted herein below:

“We would accordingly direct that a scheme be prepared for absorbing casual labourers in order to their seniority and their services be regularized according to the availability of posts, so far as wages to be paid to them are concerned it should be calculated on the basis of initial scale of Group D i.e. Class-IV posts including dearness allowance and additional dearness allowance admissible at the stage. But without any annual increment and be paid to them. This application is accordingly disposed of leaving the parties to bear their own costs.”

007

Further in order dated 30.10.1998 passed in OA No. 776 of 1995, this Tribunal directed as under:

"In view of the above these Original Applications are disposed of with a direction to the Respondents to regularize the service of those four applicants strictly in accordance with the scheme and in accordance with their seniority from the date of their regularization financial benefits, if any, accruing to them should also be paid to them. If there are vacancies available now and the applicants or some of them according to their seniority are entitled to be regularized against such vacancies, then such regularization should be done within a period of 60(sixty) days from the date of receipt of copy of this order.

9. With the above observation and direction, the Original Applications are disposed of. No costs.

4. In the light of the above directions of this Tribunal and keeping in view the situations of casual labourers working in different Government of India Organizations, the Ministry of Public Grievances and Pensions, Department of Personnel and Training, New Delhi framed a Scheme known as "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993" (hereinafter called as 'Scheme, 1993') which came into force with effect from 01.09.1993 (Annexure-R/3) dealing with the conferment of temporary status on Casual Labourers and their regularization Gr. D/Class IV.

5. Now in these four Original Applications, the question comes for consideration as to whether the Respondents have fully complied with the directions of this Tribunal in the light of Annexure-R/3 Scheme, 1993 in the

10

11

matter of conferment of temporary status and regularization of the services of the Applicants.

6. In spite of several opportunities, when the matters listed, neither the Applicants nor their counsel appeared in these OAs lying since 2003. Also on 21.05.2008 when the matters were taken up for hearing and final disposal, neither the Applicants nor their Counsel was present. No request was also made on their behalf for adjournment of these OAs. Pleadings in these cases are complete since long. In view of the above, this Tribunal heard Mr. U.B. Mohapatra, Learned Senior Standing Counsel appearing for the Respondents and perused the records produced including Annexure-R/3 scheme, <sup>1973</sup> 1998 and Annexure-A/4 order dated 31<sup>st</sup> October, 2003.

7. Relying on the averments made in the preliminary as also additional Counter, Learned Senior Standing Counsel for the Respondents has argued that taking into consideration the directions of this Tribunal as also the directives of the Hon'ble Apex Court in the cases of Surinder Singh v Union of India and others, AIR 1986 SC 584 and Bharatiya Dak Tar Mazdoor Manch v Union of India and others, AIR 1987 SC 2342 as this Tribunal had directed to frame a Scheme and in the light of the, Government of India Ministry of Public Grievances and Pensions, Department of Personnel and Training, New Delhi have framed the Scheme under Annexure-R/3 by which certain benefits were allowed to casual labourers viz.; Conferment of temporary status, wages at daily rates

27

with reference to minimum of the pay scale for a corresponding regular Group D official including DA, HRA and CCA and regularization based on the numbers of days of work, seniority and nature of engagement. Learned Senior Standing Counsel further submits that Annexure-R/3 scheme, 1993 was framed by the Government of India as per the directions of the Hon'ble Apex Court as also of this Tribunal with specific stipulation that the same would be made effective w.e.f. 01.09.1993. According to the Respondents, since the scheme came into force with effect from 01.09.1993, they <sup>are</sup> not entitled <sup>to</sup> any benefits prior to the cut off date given under Annexure-R/3. Learned Senior Standing Counsel submits that the Applicants have been allowed all the benefits arising out of Annexure-R/3 Scheme 1993 such as wages at the rate of 1/30<sup>th</sup> pay with effect from 1988, Temporary status from 1993 and regularization from June, 1998 onwards, the Applicants hardly have any grievance in the present Original Application. Hence, Learned Senior Counsel for the Respondents submits that as the orders of this Tribunal have <sup>been</sup> fully complied with in the light of Annexure-R/3 Scheme, 1993, this Original Application is liable to be dismissed.

8. It is the case of the Applicants that as they were engaged from 1982 onwards, they were entitled to the benefit derived from Annexure-R/3 scheme retrospectively. In this context, we have gone through the entire contents of Annexure-R/3 Scheme, 1993 and the scheme does not postulate for conferment of the benefits narrated therein retrospectively except the wages. It is well settled principle of law that where the language

AM

13  
used in a statute is clear and unambiguous, the question of taking recourse of any principle of interpretation would not arise. While interpreting provisions, the court only interprets the law and can not legislate it. The legislative *casus omissus* cannot be supplied by judicial interpretative process vide *Padma Sunara Rao v Union of India and Ors*, (2002) 3 SCC 533 and *Rishabh Agro Industries Ltd V PLN. B. Capital Service Ltd.*, (200)5 SCC 515. Besides the above, as it is a policy decision of the Government, no Courts/Tribunal can have any power to interfere on the same especially in absence of specific stand on the part of the Applicant that it contravenes any of the constitutional or statutory provisions (*Basic Education Board, UP v Upendra Rai and others* (2008) 1 SCC (L&S) 771).

9. On considering the averments made in the Original Application, Preliminary as well as Additional Counter filed for and on behalf of the Respondents and the arguments advanced by Learned Senior Standing Counsel for the Respondents, this Tribunal is satisfied that the impugned order are in accordance with the directions of this Tribunal in earlier OAs, referred to above and since the Scheme, 1993 only came into effect only from 01.09.1993, the Applicants are not entitled to claim any benefits arising out of Annexure-R/3 prior to coming into force of the aforesaid scheme/cut off date fixed in the scheme; especially when the virus of Annexure-R/3 Scheme, 1993 is not questioned by the Applicants in these OA.

Q7



4

- 7 -

10. In the light of the discussions made above, we see no merit in these Original Applications. Accordingly, these OAs are dismissed by leaving the parties to bear their own costs.

(C.R.M.)  
MEMBER (ADMN.)

a pp 40  
(JUSTICE K.THANKAPPAN)  
MEMBER (JUDL.)

KNM/PS.