

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O.A. No. 639 of 1996

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman  
Hon'ble Mr. M.S. Mukherjee, Administrative Member

D.Kesava Rao & Ors.

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Applicants

-Vs-

1. Union of India, service through the  
General Manager, S.E. Rly., Garden Reach,  
Calcutta-43 ;

2. The Chief Project Manager, S.E. Rly.,  
Garden Reach, Calcutta - 43 ;

3. The Chief Personnel Officer, S.E. Rly.,  
Garden Reach, Calcutta - 43 ;

4. The Senior Project Manager, S.E. Railway,  
Kharagpur ;

5. The District Project Manager, S.E. Rly.,  
Kharagpur.

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Respondents

Counsel for the applicants : Mr. A. Chakraborty

Counsel for the respondents : Mr. S. Choudhury

Heard on : 21.2.1997

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Order on : 13.3.1997

O R D E R

A.K.Chatterjee, VC

These 62 petitioners were initially engaged as casual employees in 1967 and 1968 in the Construction Unit under DEN(Con), S.E. Railway, Kharagpur and attained temporary status on 1.1.81. The General Manager, S.E. Railway accorded sanction in 1986 to the creation of 40% permanent construction reserved post w.e.f. 1.1.73 for those casual labourers, who were on the roll on 1.4.73 and had completed three years of service on such date. The petitioners

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fulfilled both the conditions and accordingly they were regularised as Khalasi in the scale of Rs.750-940/- w.e.f. 1.4.73 against permanent construction reserved post sanctioned by the General Manager as noted above. Although their services were regularised, arrear salary has not been paid to them even so many years after the order of regularisation was issued. The arrear bills were no doubt prepared <sup>by the then Sr. Project Manager, Mumbai</sup> and forwarded to the office of the Chief Project Manager, S.E. Railway for vetting in 1995, but the same were sent back to the Sr. Project Manager in whose office arrear bills were prepared on the ground that he did not give particulars of service of the petitioners for the period from the date of their regularisation till the date on which they attained the temporary status. The petitioners contend that under the rules, service particulars of casual labourers, pay sheet etc. are preserved only for a period of 10 years and, therefore, at this point of time, it was not possible to verify the claim of the applicants for payment of arrears from the Casual Labour Register, Pay Sheet and Service Records. In these circumstances, finding no other alternative, the petitioners have filed the present application for a direction upon the respondents to release arrears of pay due to them with effect from 1.4.73 by waiving the internal check of the arrear claim.

2. The respondents in their counter admit that the petitioners were regularised against 40% P.C.R. posts along with other eligible casual labourers with effect from 1.4.73 and the bill for the arrear pay and allowances was drawn and submitted to the Finance on 9.5.95 but the same was returned with an observation that the paid vouchers are not traceable in the Finance Department. In such circumstances, it is stated that the sanction of the Railway Board is necessary for admitting the bill in the absence of paid vouchers

and the office of the Sr. Project Manager, which is making every endeavour to have the arrear bill passed had submitted a proposal to the competent authority suggesting that provisional payment be arranged to the staff with the approval of the General Manager/Chief Accounts Officer(Per) subject to obtaining the post-facto sanction of the Board.

3. We have heard the Ld. Counsel for both the parties and perused the records before us. From what has been stated above, it is clear that the respondents do not dispute their liability to make payment of arrear pay and allowances to the petitioners w.e.f. 1.4.73 but they contend that the payment has been held up due to non-availability of relevant records, which, it is understood, <sup>has since been</sup> ~~is~~ destroyed ~~after 10 years~~ under the rules. However, the petitioners cannot be made to suffer for procedural snags and the respondents should be diligent in making payment to the petitioners even on a provisional basis with the approval of the Railway Board. It does not appear that besides making <sup>a</sup> ~~n~~ proposal for payment on a provisional basis as above, any concrete step has so far been taken in this direction and there is nothing before us to show that the General Manager/Chief Accounts Officer(P) was ever approached for necessary approval subject to the sanction of the Railway Board. In such situation, this Tribunal cannot but interfere to protect the interest of poor employees like the petitioners by giving a suitable <sup>firm</sup> direction on the concerned authorities.

4. The application is, therefore, disposed of with a direction upon the respondents to complete all formalities to ensure and release the arrear pay and allowances to the petitioners as may be admissible to them under the rules within 4(four) months

from the date of communication of this order, in default of which interest @ 12% per annum shall have to be paid from the date of expiry of the said period of four months till the date of actual payment.

5. No order is, however, made as to costs.

*M. S. Mukherjee*  
13.3.1997  
( M.S. Mukherjee )  
Member (A)

*A. K. Chatterjee*  
13.3.17  
( A.K. Chatterjee )  
Vice-Chairman