

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 44/90
T. A. No.

199

DATE OF DECISION 30.8.91

Thailathu Koya Applicant (s)

M/s. M.K.Damodaran, C.T.Ravikumar,
Alexander Thomas & Advocate for the Applicant (s)
M.P.Prabhanandan
Versus

Administrator, Union Territory of
Lakshadweep, Kavarathy and 2 others Respondent (s)

Mr.N.N.Sugunapalan, SCGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. N.DHARMADAN, JUDICIAL MEMBER

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

JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

This is still another case in which the applicant who has been working as a casual labourer in the Coir Fibre Factory under the Department of Industries of the Lakshadweep Administration has sought wages in the regular Class IV pay scale of Rs.750-940 available to Helpers in the same factory . His contention is that his duties are similar to ^{those} ~~that~~ of Fibre Factory Helper, like collection of dry husk, husk removal from water tank , feeding husk to crusher etc., but whereas the Helper is getting pay in the scale of Rs.740-940, he is being given daily wages at the rate of Rs. 24.75 . He has referred to the rulings of the Supreme Court in Dhirendra Chamoli vs. State of U.P., 1986 1 SCC 637 and Surinder Singh vs. Engineer-in-Chief, C.P.W.D, 1986 1 SCC 639, in which the princi-

ple of 'equal pay for equal work' has been upheld for casual workers doing similar work as of regular employees. He has also referred to the Department of Personnel's O.M dated 7.6.1988 in which it has been laid down that casual workers doing similar work as regular workers should be given 1/30th of the pay at the minimum of the relevant pay scale of regular workers.

2. In the counter affidavit, the respondents have stated that the Industries Department of Lakshadweep Administration commissioned the first Fibre Factory in 1970 with only nine workers later increased to thirty. To absorb senior(casual)labourers of the Fibre Factory initially ten posts of Helpers were sanctioned in 1983 and these posts were filled up by absorbing the seniormost labourers of the factory. A proposal was sent to the Government of India for sanctioning 18 more posts of Helpers for absorbing the remaining casual workers, but only five posts were sanctioned in 1989. The applicant was employed as an unskilled labourer on 20.4.74 and was elevated as semi-skilled labourer in 1980 and skilled worker in 1987. His daily wages were also increased from Rs.14.75 per day to Rs.24.75 per day. Having said all this, the respondents have gone on to say that the work done by casual labourers like collection of raw materials, filling up the husk in soaking tank, drying of fibre, transportation of soaked husk to machines etc. are of unskilled nature. They have, however, conceded that as and when they qualify

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in the trade test, the casual labourers are given more responsible and skilled work like operating of bursting machines, husk bursting machine, hackeling machine etc. The casual labourers in the Fibre Factory were appointed as Helpers after serving specific years as unskilled, semi-skilled and skilled and specially skilled labourers, according to the seniority. The applicant has to wait for absorption to regular post of Helper according to his seniority.

3. In the rejoinder the applicant has listed the types of works that he is doing in ^{the} Coir Factory including collection of raw materials, transportation of socked husks, operating the crushing machine, assisting the machine operator, feeding soaked husks to crushing machine etc. Denying the averment of the respondents that casual labourers are appointed as regular Helper only after reaching the stage of specially skilled casual labours, he has pointed out a number of instances where casual workers in the skilled or unskilled grades were directly appointed as Helpers. He has asserted that casual labourers and Helpers are doing the same type of work and cited daily distribution of work in which it has been shown that casual labourer and Helpers were together doing husk collection , bailing, loading, fibre drying and fibre loading etc.

4. In the additional reply it has been stated ^{by the respondents} that the applicant has got an appointment as Group D Peon on regular basis in 1990(Annexure R1). He has been as a casual worker in the Fibre Factory

enjoying all the privileges under the Factories Act. Without rebutting the averment of the applicant that Helpers and casual workers are doing the same types together, the respondents have conceded that as in any Industrial unit "different types of works with different machines are allotted to a mixed groups where regular employees if available will be put in with different grades of labourers " so that the latter also learn the machine work but his duty is only to help the regular worker in running the machine. They have conceded that an unskilled worker was directly appointed as a Helper explaining that it was on compassionate grounds. The respondents have virtually tried to evade the production of Work Allotment Register by stating that "just by examining the Work Allotment Register it will not be justified that the applicant is doing same work as that of Group D Fibre Factory Helper".

5. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The respondents could not produce the Work Allotment Register or any other document to show that the applicant as a casual labourer was merely assisting the regular Class IV Helpers on machines etc. despite several adjournments given. We have therefore to adjudicate this case on the basis of available records and information.

6. It is not disputed that the applicant has been working in the Coir Fibre Factory as a casual labourer in 1974. The respondents

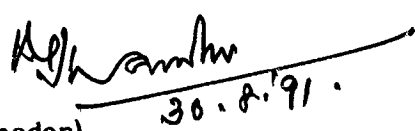
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have stated that this factory was started in 1970 with only ^{nine} casual labourers and it was only in 1983 that for the first time ten regular Class IV posts of Helpers were sanctioned for absorption of these casual labourers. This means that the applicant worked from 1974 to 1983 in the factory when there was no regular Class IV Helpers. Since it is not the case of the respondents that the factory was not producing anything and lying idle till 1983 when the Helpers joined, it goes without saying that for 13 years the factory was operating ^{exclusively} with casual labourers ^{alone}. Thus the casual labourers between 1970 and 1983 were undoubtedly doing the same work as those of Helpers. Since the applicant joined in 1974 it can safely be deduced that at least ^{till} in 1983 he was doing the work of Helper independently because there was no Helper as such till 1983. The posts of Helpers were created for absorption of casual labourers in regular cadre. The allotment of work shown by the applicant which has not been denied by the respondents indicates that the various types of works in the factory were being discharged jointly by the casual labourer and Helpers. Since the respondents did not produce any Work Allotment Register to substantiate their averment that the casual labourers were working ^{merely} to assist the Helper and not independently and since for ^{the first} 13 years there was no Helper ^{in the Factory,} at all ⁱⁿ we have no hesitation in concluding that in operating the factory including its machines, the Helpers and the casual labourers were on

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equal footing. The respondents themselves have admitted that even for operating the machines, the casual labourers ^{are being} ~~were~~ deployed along with the regular Helpers.

7. In the facts and circumstances we allow the application and direct that the applicant should be given daily wages at the rate of 1/30th of the minimum of the pay scale of Rs.750-940 during the period he worked as a casual labourer and all other benefits which are admissible in accordance with the Department of Personnel's O.M No.49014/2/Est.(c) dated 7.6.1988 . The arrears of wages and allowances, however will be paid to him for the period commencing from three years prior to the date of filing of this application. The payment of arrears should be made good within a period of three months from the date of communication of this order. There will be no order as to costs.


(N.Dharmadan)
Judicial Member


(S.P.Mukerji)
Vice Chairman

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(21)

Mr P.S. Usuph

Mr P.K. Madhusoodhanan

Adjourned to 30.6.92 for

final hearing.

ph

(ND)
23/6/92

30.6.92.

Mr. PS Usuph
Mr. Madu-rép. SCGSC

No reply to the CCP has been filed. Issue notice under Rule 8(b) of the Contempt of Court Act to Respondents 1&2 returnable on 28.7.92.

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SPM

28.7.92.

Mr. P.S. Usuph
Mr. NN Sugunapalan, SCGSC

The learned counsel for the petitioner appeared and states that the judgment has been fully implemented. Accordingly the CCP is closed and notice discharged.

N.D. Dharmadan

(N. Dharmadan)
Judicial Member

S.P. Mukerji

(SP Mukerji)
Vice Chairman

28.7.92

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Notice to R1&2

Issued on 10/5/92

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