

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 573/92

Thursday the thirteenth day of January, 1994.

MR. N. DHARMADAN MEMBER (JUDICIAL)

MR. S. KASIPANDIAN MEMBER (ADMINISTRATIVE)

1. P.J. Sebastian S/o Joseph,
Perimanath house, Kadavanthara
2. T.K. Joseph, S/o Kurien,
Thayamkeri house, Chilavaneor,
Kadavanthara
3. K.K. Harichandran s/o Krishnan
Mattathuparambu, Elamkulam
Kadavanthara
4. P.I. Mamu s/o Kunjumideen
Pariyarapallil house, Panangad
5. E.N. Anirudhan S/o Narayanan
Edacochypadam, Chilavaneor? kadavanthara
6. C.V. Varkey s/o Lenan Varkey
Chullliadan house, Chilavaneor, Kadavanthara
7. C.B. Saravanan s/o Bahuleyan
Chakkalaparambil house, Kumbalam

Applicants

By Advocate Mr. T. A. Rajan

vs.

1. Union of India represented by Secretary
Ministry of Defence, New Delhi
2. The Flag Officer, Commanding-in-chief
HQrs, Southern Naval Command, Kochi-4

Respondents

By Mr. S. Parameswaran

ORDER

N. DHARMADAN

Seven applicants, who worked as casual employees under the second respondents, jointly filed this application for a direction to re-engage them and regularise their service in any one of the units under the second respondent in the light of the earlier judgments of this Tribunal in O.A.165/89 dated 31.12.90. The applicants have averred that they were initially engaged as casual workers through Employment Exchange on 6.7.77, 28.10.78, 27.9.73, 18.5.77, 25.7.78, 2.12.75, 14.12.76 respectively. They continued in the casual

service till 24.5.83, 9.9.87, 12.10.81, 30.4.86, 31.8.87, 19.5.81, 5.11.84 respectively with artificial breaks. According to the applicants, they are similarly situated like the applicants in O.A. 1262/92. Hence, immediately after the judgment, they filed representations for getting similar benefits. These representations were not disposed of so far.

2. The respondents have admitted the earlier engagement of the applicants; but they have contended that the applicants have worked only for very short periods and that too not continuously. They were, according to the respondents, "are daily rated employees and have been given spot employment." "... spot employment was given for some temporary and immediate job requirement on adhoc basis." Hence, according to the respondents, the applicants are not entitled to claim regularisation.

3. The applicants denied all the statements in thereply by filing a rejoinder. They also produced Annexure-V certificates showing the last date of their engagement. Annexure A-VI and A-VII are further certificates to prove that they have received daily wages and monthly wages for the period during which they worked. They reiterated their case that they are similarly situated like the applicant in O.A. 1262/92.

4. Having heard the learned counsel on both sides we are satisfied that it would be fair and proper to dispose of the application without going into the merits; considering the contentions, in view of the fact that representations submitted by the applicants, for getting reliefs in the light of an earlier judgment, are not disposed of so far and they are pending, we are inclined to do so.

5. Advocate Shri S. Parameswaran, learned counsel for the respondents submitted that representations filed

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by the applicants Annexure-III and IV are not based on statutory provisions or legal principles. There is no mandatory duty statutory or otherwise imposed on the respondents to dispose of such representations made in the exploratory manner. The learned counsel very forcefully submitted that the Supreme Court has laid down the law in various cases that the simple petitions or representations submitted by the Government employees, not on the basis of any statutory rules or provisions or legal principles, need not be considered by the administrative authorities; they can be ignored. The Tribunal or court should not issue any mandamus or direction for the disposal of the same. We are not prepared to go along with the learned counsel and accept his submission. First of all, the Supreme Court has not laid down such a sweeping and wide proportion of law in clear terms as indicated by the counsel. Secondly, this Tribunal is not issuing mandamus or direction as in the case of High Court treating it a prerogative writ. Mandamus, of course, is a prerogative writ which is employed for enforcement of public duties. It is really a command addressed to any person, corporation or any inferior judicial or other forum requiring to do some particular duty specified therein for Article 32 and 226 of the Indian Constitution make provisions for the system of writs in this country. In Basappa v. Basappa, AIR 1954 SC 440, the Supreme Court in clear terms ruled that "in reviewing administrative action, the courts would keep to broad and fundamental principles underlying the prerogative writ in the English Law without however imposing all its technicalities." So, the

technical plea of the learned counsel has not been even in regard to writ of mandamus. approved by the Supreme Court/ Infact in a good number of cases, the Supreme Court has deviated from the technical approach and issued directions in the interest of justice.

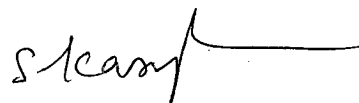
6. According to us, any government employee who submits a representation based on the judgment of this Tribunal, it is based on a legal principle and he is entitled to get a reply. The administrative authority has a duty to respond the same. Any employer who utilises the service of the employee on the basis of a contract or otherwise, some right would accrue/ employee on the and if he high-lights his grievance, before the employer or/ the authorities on the basis of a judgment, it is the duty of the employer to consider it in the proper perspective and dispose of the same in accordance with law informing him the correct position.

7. From the facts and circumstances of the case we are of the view that the applicants' case for re-engagement deserves consideration in the light of the judgments of this Tribunal referred to above. The learned counsel for applicant also brought to our notice a recent judgment in O.A. 483/92 by which this Tribunal has directed the second respondent to prepare a scheme as has been done by the Railways and other departments for re-engagement of casual employees having prior service so as to avoid embarrassment and inconvenience to the employees who were originally appointed after selection through employment exchange.

8. In the light of the earlier judgments of this Tribunal it is proper for the respondents to consider and dispose of the representations already filed by the

applicants in this case. Hence, we dispose of the original application directing the second respondent to take a decision on the representations submitted by the applicants and pass orders within a period of three months from the date of receipt of the copy of this judgment. It goes without saying that the applicant's contentions stated in the original application are also required to be considered by the second respondent while disposing of the representations.

9. The application is disposed of as indicated above.
10. There shall be no order as to costs.



(S. KASIPANDIAN)
MEMBER (ADMINISTRATIVE)

kmm



(N. DHARMADAN)
MEMBER (JUDICIAL)