

ORDER

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

FRIDAY, THE 9TH DAY OF NOVEMBER, 1990

PRESENT

Hon'ble Mr. N.V. Krishnan .. Administrative Member
and

Hon'ble Mr. N Dharmadan .. Judicial Member

RA No: 26/90 in OA:85 & 165/89

PX Mary and others .. Applicants

versus

UOI rep. by Secretary, D/o
Personnel & Administrative .. Respondents
Reforms, New Delhi & another

Mr. TA Rajan .. Counsel for applicants

Mr. VV Sidharthan .. Counsel for respondents

ORDER

In this review application filed by the applicants, they have stated that before the pronouncement of the judgment, an MP Dy. No. 6505 dated 20.12.89 was filed for re-hearing the matter in the light of the letter dated 8.5.84 issued by the second respondent which is also produced alongwith the M.P. These matters could not be considered by us while passing judgment. Hence, this judgment is liable to be vacated. Accordingly, we vacate the judgment and post the case for final hearing on 20.12.90.

Call on 20.12.90.

Sd/-
(N Dharmadan)
Judicial Member

Sd/-
(NV Krishnan)
Administrative Member



CERTIFIED TRUE COPY
Date 11/11/90

Deputy Registrar

1. Mr. TA Rajan, Advocate, Kochi. (for applicants)
2. Mr. VV Sidharthan, ACGSC. (for respondents)

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B/H
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DESPATCHED ON 11/11/90
DESPATCHER AB



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 165 of 1989

DATE OF DECISION 31-12-1990

M.R. Sudhakaran and 2 others Applicant (s)

Shri.T.A. Rajan Advocate for the Applicant (s)

Versus

Union of India rep. by Secretary Respondent (s)
Dept. of Personnel & Training, New Delhi and another

Mr. V.V. Sidharthan, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P. Mukerji, Vice Chairman

The Hon'ble Mr. N. Dharmadan, Judicial Member

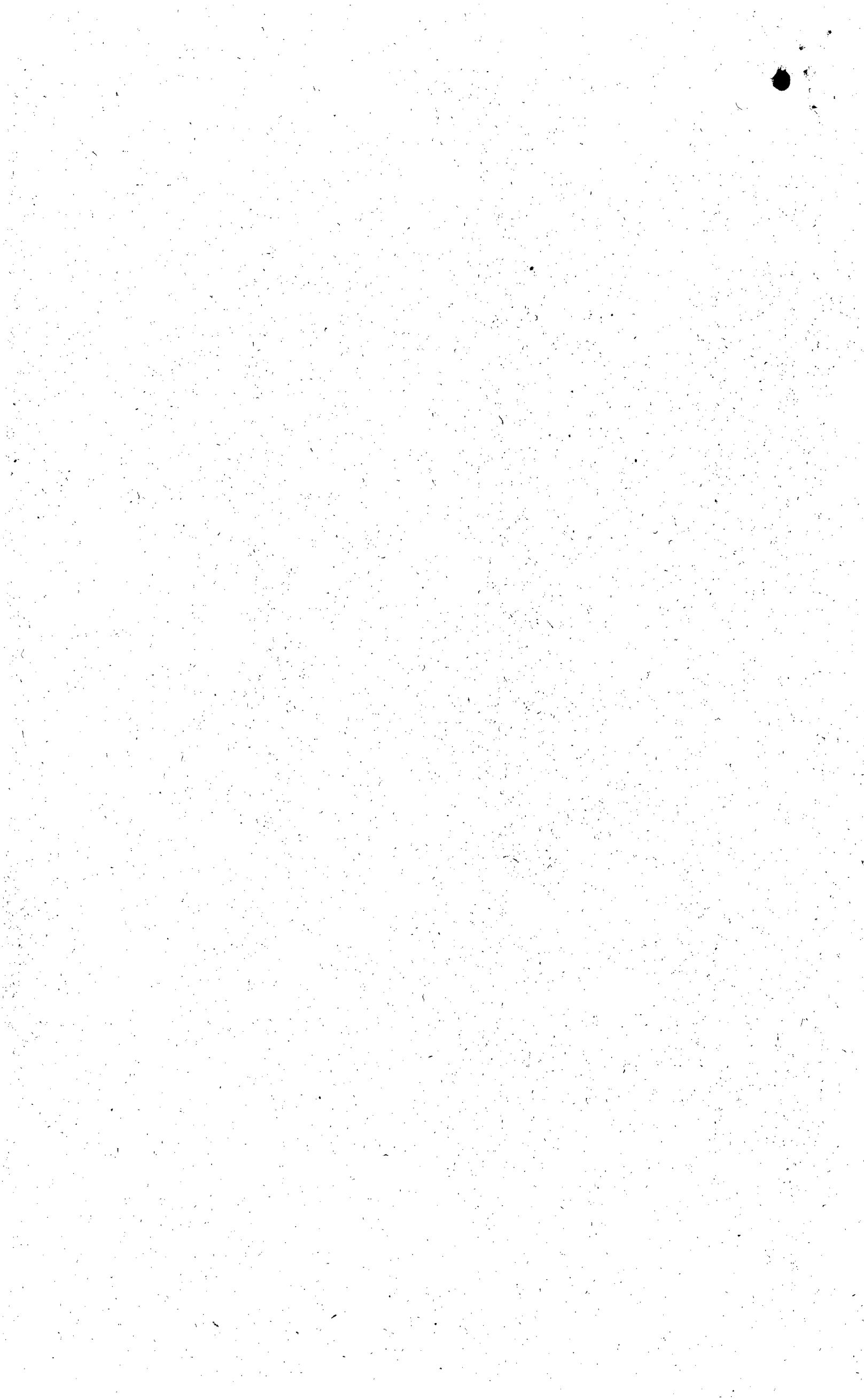
1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

N. Dharmadan, Judicial Member

This application was heard along with OA 85/89 and dismissed as per our judgment dated 23-1-90 after advertizing to the submission of the learned counsel for respondents that the Unit of the Base Victualling Yard in which the applicants were engaged for cleaning works had xxxx already been closed and there is no scope for further absorption and employment of any person for work under the respondents. We made it clear that if the second

...../



respondent starts cleaning work of rice in the Base Victualling Yard at Cochin the applicants are free to approach the authority for regular work and also for regularisation producing all documents. The applicants later filed RA 26/90 for reviewing and re-hearing the case in view of the facts stated in MP Dy.No. 6505, dated 20-12-89, filed for re-hearing the matter in the light of the letter dated 8-5-84 issued by the second respondent, Annexure-V, which according to them, a relevant document, but could not be placed before us before the final hearing. After hearing the parties, we vacated the judgment already rendered in the case and posted it for hearing again. Accordingly, it came up for hearing before us on 20-12-90.

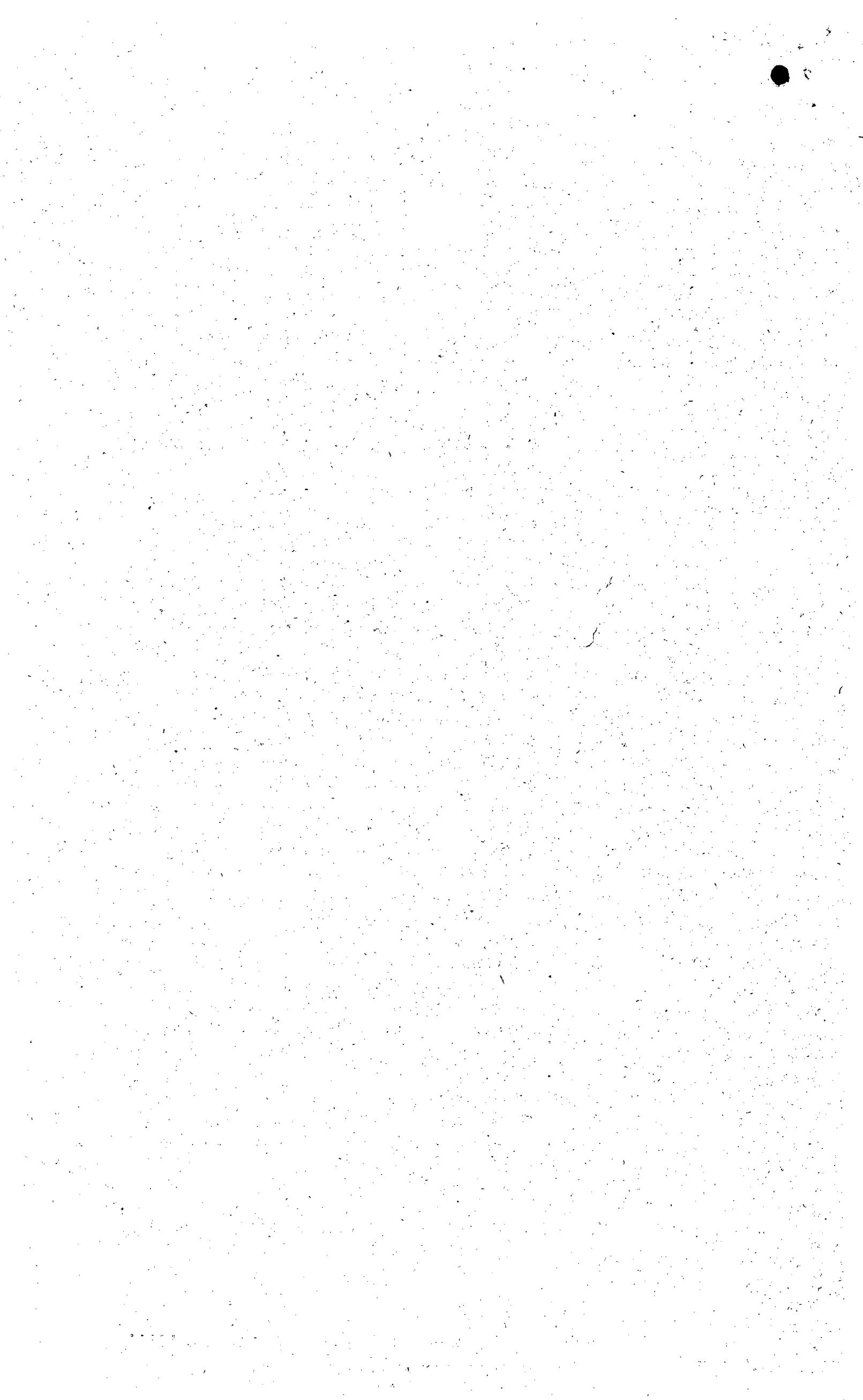
2. The brief facts of the case are as follows:

Three applicants claim that they were employed as Casual Labourers uninterruptedly during the following periods:

1. First applicant from 1975 to December 1979
2. Second applicant from 1974 to 1982
3. Third applicant from 1971 to 1980

They allege that they were working for 6 days in a week and were paid wages at the end of every week.

They were not regularised like the similar workers



who were engaged along with them. But they were denied employment without assigning any reason.

They specifically allege that the respondents have given regular appointment to 18 casual labourers who were similarly placed except the applicants.

They pointed out two specific cases of Shri Lawrence from Thoppumpadi and Shri Gopi from Palluruthi who were working along with the applicants, but were regularised by the respondents. They also submitted that they are entitled to protection of Annexure-III

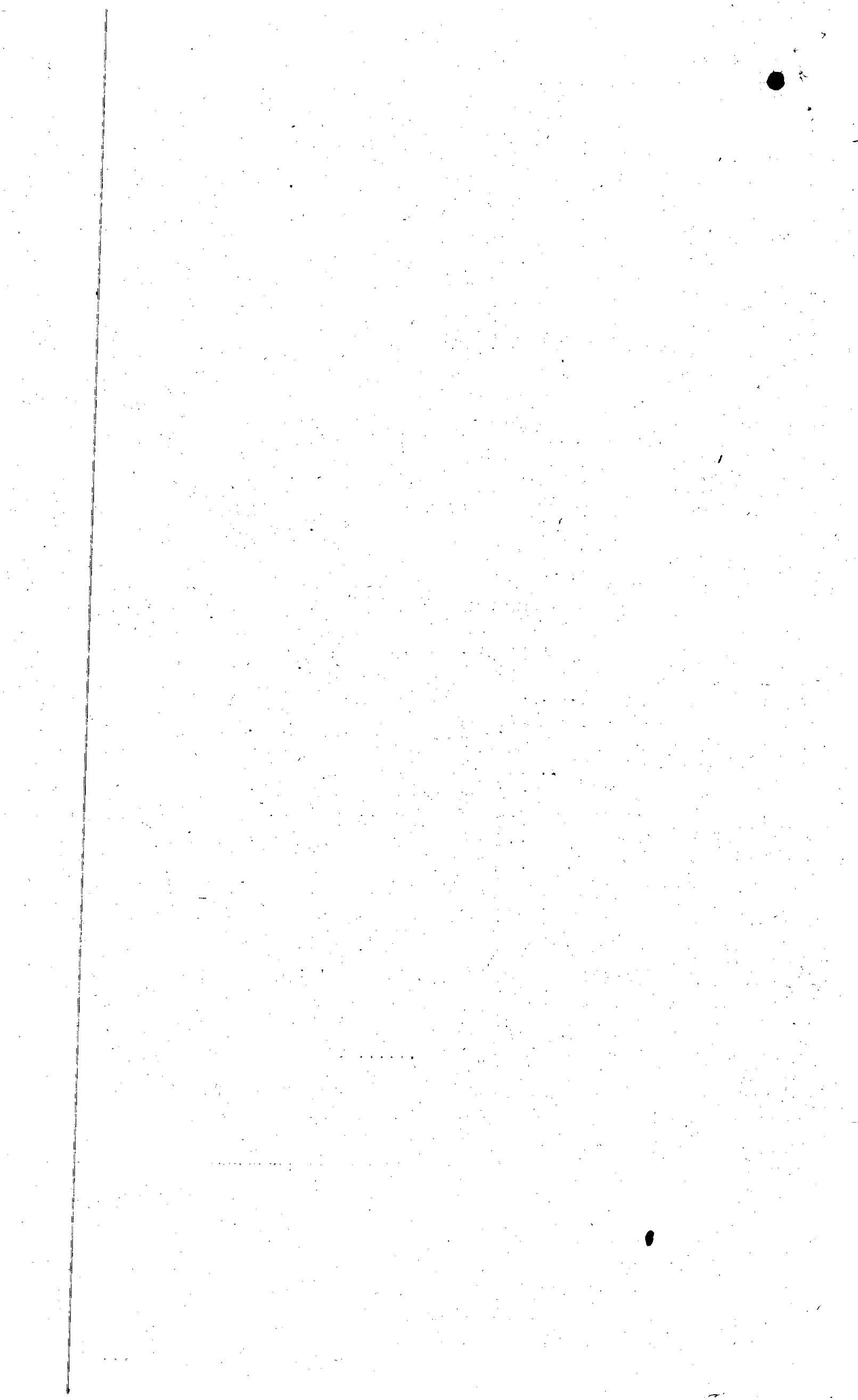
order of Ministry of Home Affairs, OM No.49014/7/83-

relevant extract of ⁶
Estt.(C) dated 13th October 1983/which reads as

follows:

".....In view of the fact that the casual employees belong to the economically weaker section of the society and with a view to avoid undue hardship to them, it has been decided that such of the casual employees as were recruited in various Ministries, Departments and their attached and subordinate offices before 21-3-1979 may be considered for regularisation in Group 'D' posts even though they may have crossed the age limit prescribed for the post provided they are otherwise eligible for regularisation....."

For the purpose of getting reliefs and protection under Annexure-III they submitted ~~xxxxxxxxxxxx~~ representations along with others on 3-8-88. But the respondents issued the impugned order at Annexure-I rejecting their request holding that the Office Memorandum of Ministry of Home



Affairs dated 13th October, 1983 is not applicable to them. The applicants has challenged this order in this application. They also prayed for a direction to the respondents to give them regular appointment in Group-'D' post under the second respondent.

3. The respondents 1 and 2 filed a detailed counter affidavit denying all the averments and allegations in the Original Application. ^{But} ~~they~~ do not deny the engagement of the applicant, and have stated that no records are available in ^{the} Southern Naval Command to prove the engagement of the applicants as claimed by them. They had made the following admission:

"....It appears that the applicants were engaged by the Base Victualling Yard, Cochin one of the Units in Southern Naval Command, on casual basis for specific period and for specific job on merrick rates of pay under the Unit's own arrangements....."

XXXXXX XXXXXX XXXXXX XXXXXX

"....It is presumed that these applicants might have also been engaged in Base Victualling Yard on casual basis on merrick rate of pay for specific job. At any rate, they were neither employed against regular vacancies nor they have uninterrupted service as they were engaged on casual basis for specific job when there was work....."

4. The applicants have filed rejoinder asserting that they were employed as Casual Labourers

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in regular vacancies and they had worked for more than 240 days in each year of their respective employment uninterruptedly. But they were refused employment for a long period for no fault of them. The applicants were available for work during these periods and they are entitled to benefits of Annexure-III order and the decision of the Government of India referred to therein. The learned counsel for the applicant brought to our notice the following decisions: Durga Prasad Tiwari and others V. Union of India, (1990) 13 ATC 567; B.R. Venkataraman V. Comptroller and Auditor General of India and others, (1989) 10 ATC 6; D. Venkata Ramiah and others V. Union of India and others, (1989) 11 ATC 166; Dakshin Railway Employees Union, Trivandrum Division V. General Manager, Southern Railway, (1987) 1 SCC 677; Inder Pal Yadav and others V. Union of India, (1985) 2 SCC 648.

5. The applicants' counsel submitted that Base Victualling Yard, Cochin is an industrial establishment as admitted by the 2nd respondent in the communication, Annexure-V letter dated 8-5-84, produced along with the Review Application. So even if the contentions of the respondents that the cleaning Unit had been closed other Units of the establishment are

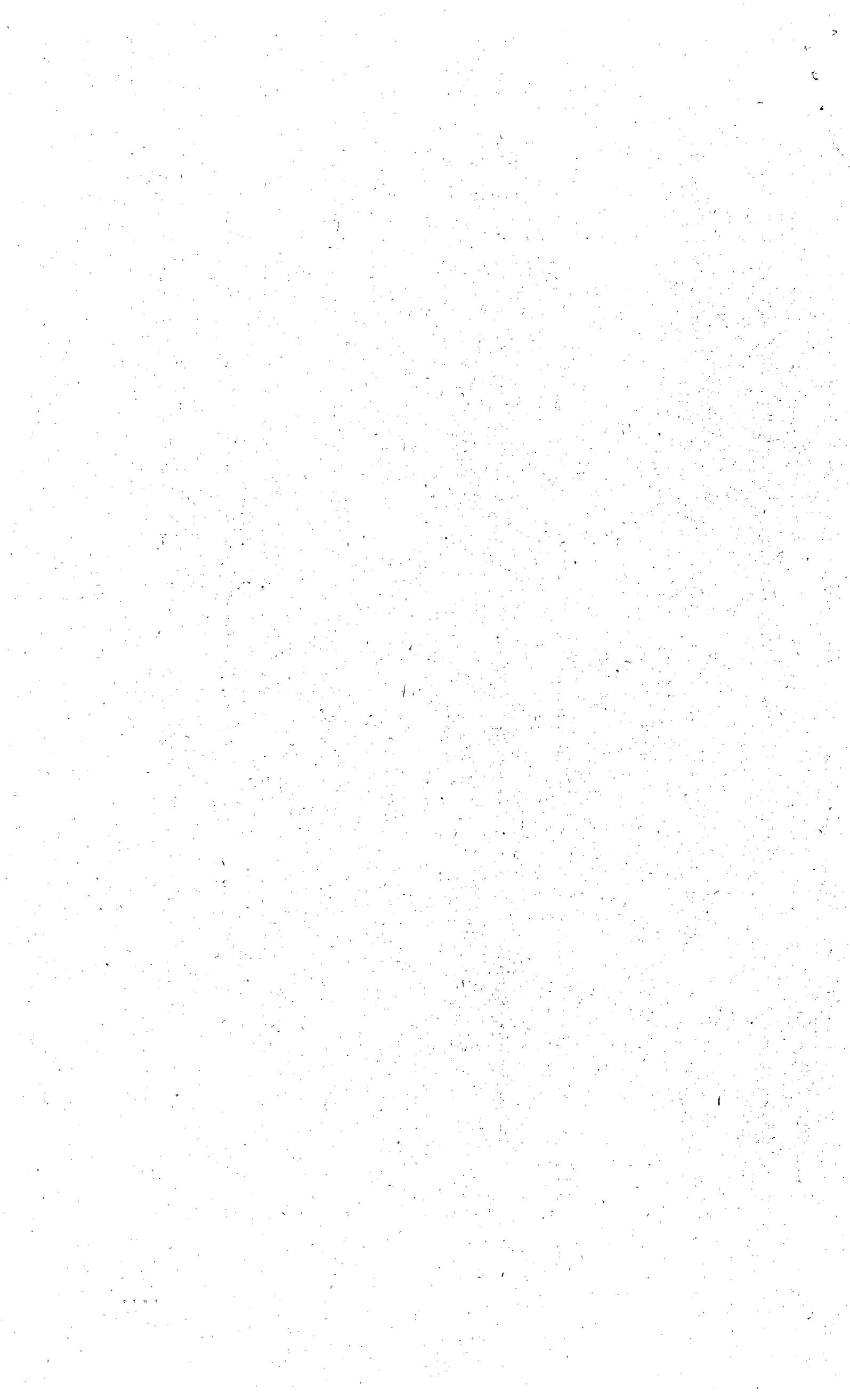


working and the applicants can be absorbed and given regularisation in these Units considering their past service. He further submitted that at the time when the applicants were taken as casual labourers, there were 52 employees but all of them were regularised except a dozen of them, who have approached the Tribunal for relief including the applicants. The decision of the Tribunal in OA 86/89 was also produced before us for perusal. Six of the casual labourers similarly situated were applicants in that case. This Tribunal disposed of the case with directions.

6. The fact that the applicants were engaged by the respondents is admitted. The duration of the services of the applicants as asserted by them is more than 240 days. Though there is a general denial by the respondents [✓] of this fact / they had not produced any document or register to disprove the statements of the applicants. There is also no records to establish that there is a legal termination of the services of the applicants. Under these circumstances, we have to follow the decision of this Tribunal in OA 86/89 and hold that the termination of the applicants is illegal. According to the learned counsel, the applicants are fully qualified and eligible to be absorbed in Group-D posts in the light^s of the decision of the Ministry of Home

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Affairs's Office Memorandum as disclosed in Annexure-III.

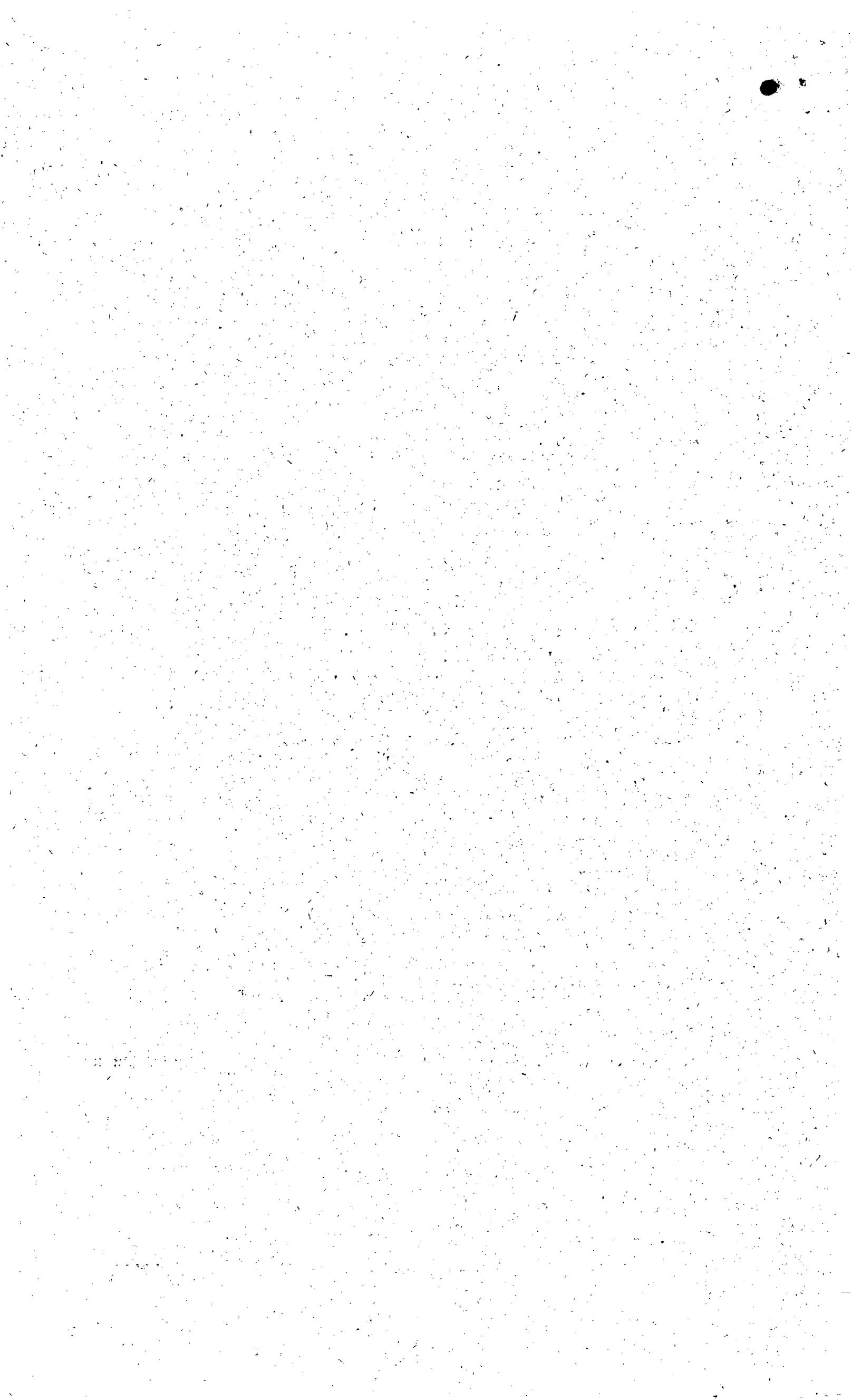
He also stated that there is discrimination. In order to support this contention he pointed out two instances, the cases of S/shri Lawrence and Gopi.

7. The learned counsel for the respondents attempted to distinguish the cases of S/shri Lawrence and Gopi, on the ground that they are not similarly situated like applicants, but he was not able to substantiate the contention and satisfy us that these two persons are in a different classes and to be treated separately. Hence, we are not accepting the arguments of the respondents.

8. The learned counsel for the respondents ^{are} has a case that there is no records in the Southern Naval Command for establishing the engagement of the applicants between 1979 and 1983 as contended by them, and hence according to them they are not entitled to get protection under Annexure-III. But in the light of admission of the respondents 1 and 2 in the counter affidavit that the applicants were engaged xxxxxxxxxxxx as casual workers and they were also paid in merrick rate of pay in the unit for specific period, the burden is on the respondents to disprove the case of the

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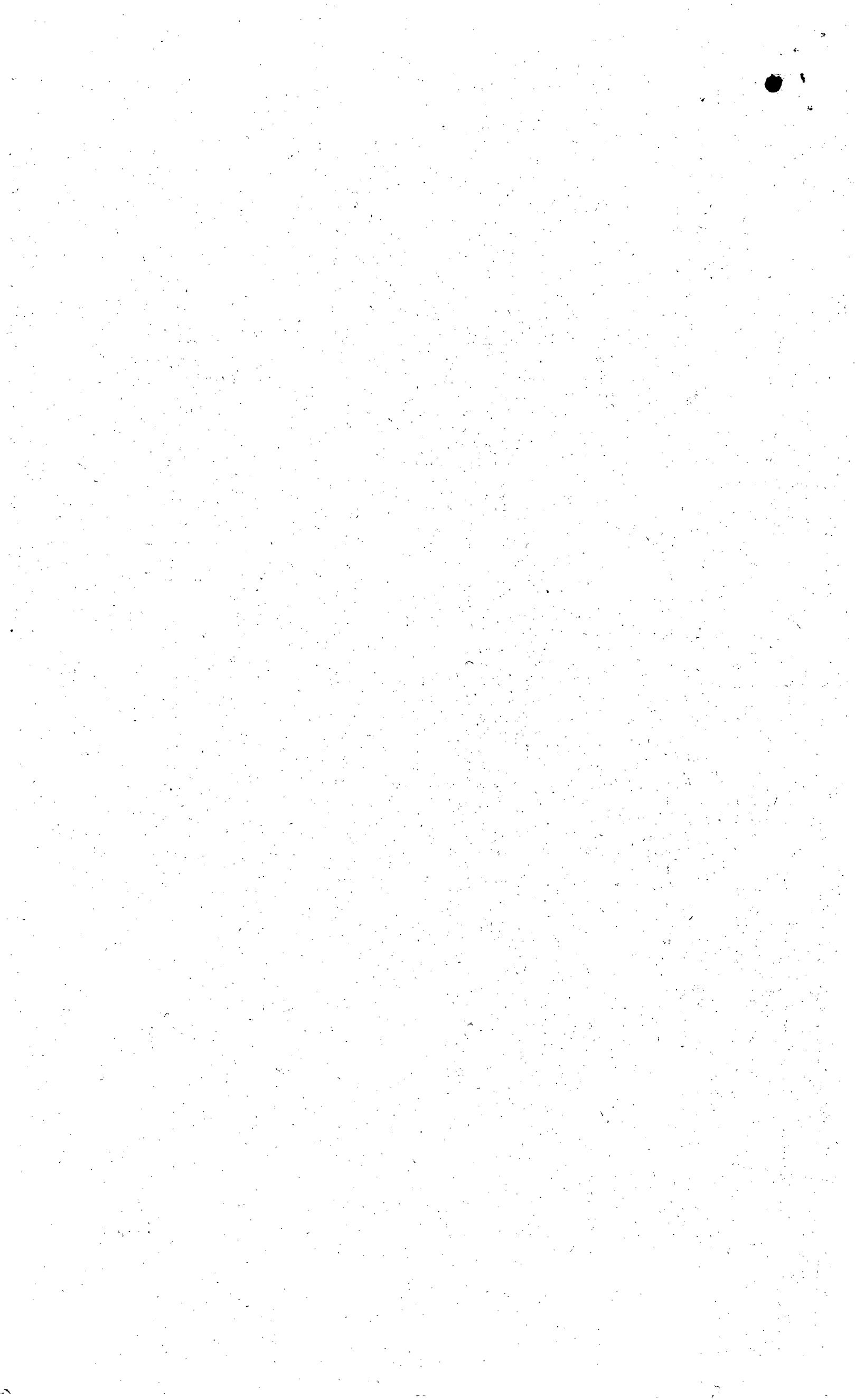


applicants that they had completed 240 days and entitled to regularisation. As indicated above no such attempt was made by the respondents except stating that no records are available in the office. Since we have already come to the conclusion that the applicants are workers whose services were not legally terminated, we are unable to accept the contention of the learned counsel of the respondents that the applicants are not entitled to be considered for regularisation in the light of the Annexure-III and R-1. Annexure R-1 is an OM No.49014/80/84-Estt.- (C)dated 7th May 1985 issued by the Ministry of Personnel and Training. It contains the following clause:

"....Having regard to the fact that casual workers belong to the weaker section of the society and termination of their services will cause undue hardship to them, it has been decided as a one time measure, in consultation with the DGP&T, that casual workers recruited before the issue of these instructions may be considered for regular appointment to group-D posts, in terms of the general instructions, even if they were recruited otherwise than through the employment exchange provided they are eligible for regular appointment in all other respects..." (parenthesis ours)

9. We have examined the decisions cited by the learned counsel for the applicant to support the

...../



contention that the applicants are entitled to regularisation. It is a settled law on the basis of decisions rendered by the Supreme Court and the Tribunal that low paid employees are entitled to be considered for regularisation when they complete statutory minimum service in an establishment under the government or other authority. Having regard to the fact that the applicants belong to weaker section of the society and refusal of the respondents in considering their posting in any of the Units where the work is available causing undue hardships to them. We have decided to interfere and grant relief. It has been held in Durga Prasad Tiwari and others V. Union of India and another, (1990) 13 ATC 567, that if the work is available in any of the Units in the establishment, the employer is bound to consider the employees who had put in statutory minimum period of service, for regularisation so as to avoid their termination from service.

"..12. Regularisation of casual labourers would depend upon the existence of regular Group-D posts in the Ministry/Department, as the office of the Controller of Accounts in the instant case should not be taken in isolation and the Ministry/Department should be taken as a single Unit.

13. In view of the fact that the applicants have worked for more than 2 to 4 years as casual

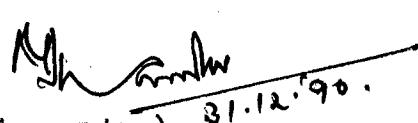


labourers and have already become overage by now for seeking employment in government service elsewhere, it will be fair and just to consider their regularisation in the available vacancies not only in the office of the Controller of Accounts where they are working presently but also in the main Ministry of External Affairs and its various other Units whether at the Headquarters at Delhi or in their office located elsewhere....."

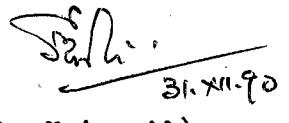
Under the above circumstances, we are of the view that the applicants are also entitled to be regularised if they are otherwise eligible, taking into consideration their previous services from the date of original engagement of the applicants and that there was no legal termination of their services.

10. Accordingly, we dispose of this application with the direction to the respondents to consider the applicants also for regular appointment in Group-D posts in the light of the above observations in accordance with the availability of vacancies in any of the Units in Base Victualling Yard at Cochin under the second respondent so as to engage them in future and regularise their services in accordance with their seniority and considering their past services.

There will be no order as to costs

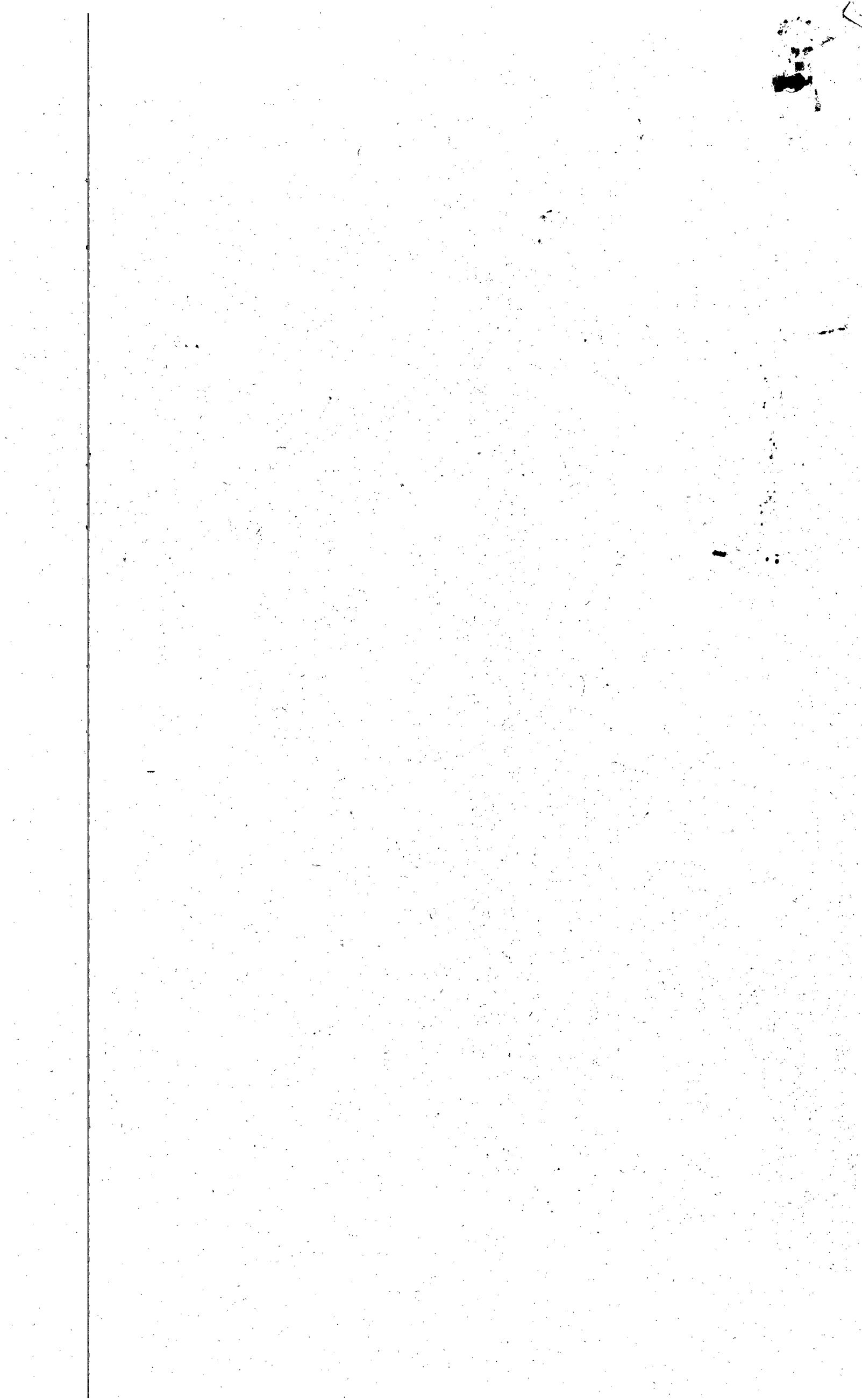

(N. Dharmadan)
Judicial Member

31.12.90


(S.P. Mukerji)
Vice Chairman

31.XII.90

31-12-1990



CENTRAL ADMINISTRATIVE TRIBUNAL

Ernakulam Bench

Dated the Tuesday the 23rd January 1990

Present:

Hon'ble Shri N.V. Krishnan, Member (Administrative)
and

Hon'ble Shri N. Dharmadan, Member (Judicial)

ORIGINAL APPLICATION : 85/89 and 165/89

1. P.X. Mary

2. A.A. Mary

3. A.P. Thressia

4. P.R. Radhamony

...4 applicants in OA:85/89

and

1. M.R. Sudhakaran

2. E.V. George

3. C.N. Babu

...3 applicants in OA:165/89

Versus

1. The Union of India represented
by the Secretary, Department of
Personnel and Administrative
Reforms, New Delhi

Common
respondents in
both cases.

2. The Flag Officer Commanding-in-Chief,
Headquarters, Southern Naval Command,
Naval Base, Cochin 682 004

M/s. N.N. Sugunapalan & P.K. Madhoosu- : The counsels
dhanan. appeared for
applicants in both
cases.

Mr. P.V. Madhavan Nambiar, SCGSC

: The counsel
appeared for
respondents in
both cases.

ABP

Judgment

Shri N. Dharmadan, Judicial Member

Four applicants in OA 85/89 who are working as Casual Labourers in the Base Victualling Yard in the Cochin Naval Base under the second respondent filed this application with the grievance that their services were not regularised even though their juniors were given the benefit of regularisation. O.A. 165/89 was filed by three persons with the identical reliefs. Both the cases are heard together on consent of the parties because identical question arises for consideration in these two cases.

2. Short facts relevant for deciding the issue are as follows: The applicants were continuously working in regular vacancies for the past about three to four years. The salary was paid to them on weekly basis. According to them there were 52 casual labourers under the second respondent. Out of them 32 were regularised. T.C. Subhashini, P.P. Victoria and K.R. Dinesan are some such employees who got regularisation under the second respondent. They are all similarly situated persons who also worked along with the applicants as weekly paid casual labourers. Though these persons were regularised, the requests of the applicants were not accepted by the respondents. They have produced

Annexure-I letter issued by the Government of India, produced along with OA 85/89, which indicates that services of casual labourers will be regularised in Group-D posts provided inter-alia they had worked for 240 days or more in each year during the period of two years service under the second respondent. On the basis of this letter some of the persons who were working along with the applicants were regularised.

Annexure-2, a letter, sent to one Mr. Sudhakaran indicates that casual employees who were in service in 1983 October will be entitled to regularisation. The applicant also produced copy of the judgment reported in Judgment Today 1988(4) SC 774.

3. The main contention of the applicants is that they were continuously working for more than required number of years as casual workers and they are entitled to be regularised in service. The persons who are similarly situated were granted regularisation but the request of the applicants for regularisation was not considered at all. This action, according to the applicants, is arbitrary, discriminatory and violative of the provisions of Article 14 and 16 of the Constitution of India.

4. The respondents stated in the counter affidavit that the applicants were engaged for cleaning

rice in Base victualling yard on 'nerrick rate' of pay on as and when required basis. The main function of Base victualling yard, Cochin is to arrange supply of provisions and clothing items of various shore establishments of the Navy, Naval ships based at Cochin and for visiting ships of the Indian Navy from other Commands as and when called on Southern Naval Command. Items like rice, sugar, pulses etc. are also supplied to Base Victualling Yard from the Army Supply Corps in bulk quantities. The rice received in Base Victualling Yard may sometimes be contaminated with foreign materials like grits and other items. Cleaning of contaminated rice is the responsibility of the Base Victualling Yard. The applicants and others were taken as Casual Labourers only when such works are available. This work is only occasional in nature, which is clear from Annexure-R.1. No appointment orders were issued to the applicants prescribing any service conditions. Annexure-R.2 statement shows details of number of days worked by the applicants during 1983 and 1989. From the statement it can be seen that work was provided to them for limited days only. Annexure-R.3 produced along with the counter affidavit shows that the casual employees who were taken by the second respondent upto 21.3.1979 have been considered for regularisation in Group-D posts even though they were overaged, and recruited otherwise

than through Employment Exchange provided they are eligible for regular appointment in terms of Annexure-R.3 and R.4 letters. The applicants were officially engaged in 1983 and 1985. As per the Recruitment Rules for Group-D posts the upper age limit is 30 years. The date of birth of the applicants as furnished by them to Base Victualling Yard, Cochin are as indicated below:

(a)	D.X. Mary	..1.2.1952
(b)	A.A. Mary	..1.2.1952
(c)	A.P. Thressia	..3.5.1938
(d)	P.R. Radhamoni	..7.10.1945

Hence, at the time of initial engagement in Base Victualling Yard first and second applicants in OA:85/89 were aged $31\frac{1}{2}$ years and third applicant was aged 45 years and the 4th applicant was $39\frac{1}{2}$ years old. The age of the applicants shown in the application is not correct as per records. As the age limit laid down for Group-D posts is 30 and since all the applicants are overaged even at the time of their initial engagement in Base Victualling Yard, Cochin, they cannot be regularised. The respondents also submitted that those who were already absorbed in the permanent vacancies were within the prescribed age limit and Annexure-5 and 6, certificates show that the applicants are overaged and hence their services cannot be regularised as per the orders in existence. The applicants filed rejoinder subsequently

and cited some specific instances of regularisation of persons who are overaged. They have submitted that Smt. Baby Rocky and P.P. Victoria, who were initially engaged long after the completion of 30 years of age, were given regularisation. This has been denied by the respondent in their additional reply to the rejoinder. However, these are disputed questions of facts requiring investigation initially by the administrative authorities. We are not inclined to conduct an enquiry in to this. But the important point to be considered is whether the applicants fully satisfy the requirements of absorption as regular employee. The recruitment conditions compel us to enquire ^{to} prescribed by the respondents / (1) whether the employee at the time of initial appointment, is within the age limit prescribed by the relevant provisions viz. 30 years stipulated in the rules, (2) whether any persons similarly situated like that of the applicants were given regularisation over-looking the claim of the applicants. With regard to both these points there is no satisfactory materials to be acted upon by this Tribunal at this stage.

5. However, we would have attempted to investigate the matter in greater detail but for the special circumstances which make such an attempt futile.

6. In this connection it is pertinent to note one important point. The learned government counsel submitted that the applicant in OA:85/89 filed a contempt petition, CCP No.3/89, when it came up for consideration the respondents filed a statement showing that the cleaning work in the Base Victualling Yard has already been stopped and there is no scope for further absorption and employment of any persons for the work in the yard. Considering this aspect even if the applicants are found suitable and satisfy all the requirements for regular appointment, it is not possible to re-employ them on a regular basis as there is no cleaning work undertaken by the second respondent in the Yard. In the result we have to close the application without deciding the issues raised by the applicants.

7. But if the second respondent starts the cleaning works of rice in the Base Victualling Yard at

Cochin the applicants are free to approach the second respondent for regular works and also for regularisation producing all available materials and also get preference to any fresh worker to be taken for the work in the establishment. In the facts and circumstances of the cases, these two applications are dismissed. There will be no order as to costs.



23.1.90

(N. Dharmadan)
Member (Judicial)


19.1.90

(N.V. Krishnan)
Member (Administrative)

Pronounced in the open court on 23.1.90 on behalf
of the Bench.



(N. Dharmadan)
Member (Judicial)
23.1.1990

ganga.

R.A. No. 26/90.....

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Placed below is a Review Petition filed by _____

P.X. Mary & Ors. (Applicant/

Respondent in OA/TA No. 85 - 165/89) seeking a review of the order dated 23-1-90 passed by this Tribunal in the above noted case.

As per Rule 17(ii) and (iii), a review petition shall ordinarily be heard by the same Bench which passed the order, and unless ordered otherwise by the Bench concerned, a review petition shall be disposed of by circulation where the Bench may either dismiss the petition or direct notice to be issued to the opposite party.

The Review petition is therefore, submitted for orders of the Bench consisting of Hon. Shri N.V. Krishnan Member (A) and Hon. Shri N. Dharmadoss Member (J) which pronounced the order sought to be reviewed.

21/2

21/2

PS to Hon. Shri N. Dharmadoss
Member (J). Please ^{not before bench} ~~not before~~ ^{getting consent from} Member (A)
Honorable Shri N.V. Krishnan, A.M.

I agree
V
28/2

MK
RK-W.P.
Mobile 0464 23 40 00
2/3/90
S
R.O.P
T-21

May be on 12/2/90
S
1/3/90

10/2/90

① RA. 26/80 w/ OA. 83 & 165/80.

NVK & ND

12/3/80

(11)

Mr Pk. Madhavdasan for the applicant.
S. C. & S. E. of the respondents.

At the request of counsel of the applicant, the matter is adjourned for hearing to 3/4/80.

by H

NVK & ND

12/3/80

Mr TA Rajan for the applicant.
S. C. & S. E. of the respondents.

Mr TA Rajan appears and
submits that the earlier Counsel
for the applicant has since been
changed and he would be filing
a "Vakalat." Let the case be
listed for hearing on 31-5-80.

by H

9/4/80

NVK & ND

Mr TA Rajan for the applicant in RA.

Mr VV Sidharthan, ACGSC for the respondents.

At the request of the counsel of applicant,
the case is adjourned for final hearing to 24.7.90.

by H

9.7.90

NVK & ND
for the

24.7.90 (5) Mr TA Rajan - Review Applicant
Mr VV Sidharthan, ACGSC by Proxy.

It is submitted by the review applicant that similar matter has been heard and reserved for orders. On that ground, let the case be listed for hearing on 24.8.90.

by B

24.7.90

NVK & ND

Mr. TA Rajan for the Review applicant
Mr VV Sidharthan for respondents

At the request of the counsel
the case be listed on 13/9/90

(8)

Adj. to 19.8.90
Vide Nthindt: 13.9.90
D.O. T.O.

19.8.90

(20)

Mr TA Rajan for the applicant

Mr VV Sidharthan, ACGSC for Respondents

At the request of the counsel
of the respondents, Case on 7/11/90

Reply by Resps.
on 19.8.90

(20) T.O.

by B

19/8/90

NVK & ND

7-11-90

(8)

Mr TA Rajan for the applicant & A.A.
Mr VV Sidharthan, ACGSC for the respondents

At the request of the learned
Counsel for the respondents call on 9-11-90.

LL

7-11-90

NVK & ND

9.11.90

(10)

Mr TA Rajan for the applicant.

Mr VV Sidharthan, ACGSC for the respondents.

In this review application filed by the
applicants, they have stated that before the
pronouncement of the judgment, an MP Dy. No. 6505
dated 20.12.89 was filed for re-hearing the matter
in the light of the letter dated 8.5.84 issued
by the second respondent which is also produced
alongwith the M.P. These matters could not be
considered by us while passing judgment. Hence,
this judgment is liable to be vacated. Accordingly,
we vacate the judgment and post the case for final
hearing on 20.12.90.

Call on 20.12.90.

LL

9.11.90

BCP

CENTRAL ADMINISTRATIVE TRIBUNAL: ERNAKULAM BENCH

Date of decision: 1.12.89

Present

Hon'ble Shri NV Krishnan, Administrative Member

and

Hon'ble Shri N Dharmadan, Judicial Member

C.C.P(Civil) No.3/89 in O.A. No. 85/89

1 PX Mary
2 AA Mary
3 AP Thressia
4 PR Radhamony : Petitioners
Vs.

1 Flag Officer Commanding in-
Chief
Southern Naval Command
Cochin.
2 Civilian Gazetted Officer
Headquarters
Southern Naval Command
Cochin Naval Base, Cochin-4 : Respondents

M/s Chandrasekharan and
Chandrasekhara Menon : Counsel of petitioners
Mr PV Madhavan Nambiar, Sr CGSC : Counsel of Respondents

O R D E R

Shri NV Krishnan, Administrative Member.

The petitioners in this petition are applicants
in OA No.85/89 which is still pending before the Tribunal.
In that Original Application by an interim order, the
Respondents were directed that "statusquo as regards
continuance of the applicants in service to be maintained"
till the case is put up before the Division Bench for
orders on the interim relief. By an order dated 14.2.89,
the Division Bench which considered the matter on 14.2.89
directed as follows:

" The Sr CGSC enters appearance for the respondents.
He opposes the continuance of the interim relief
on the ground that the applicants are being engaged
only periodically as and when the work of cleaning
rice arises. Even if that be so, since the scope
of the interim relief allowed on 10.2.1989 is only
the statusquo as regards the continuance of the

applicants in service to be maintained, we are of the view that the operation of the said order should continue for a period of 2 months. Orders accordingly."

2 The petitioners have filed this application alleging that contrary to the interim order dated 14.2.89, the petitioners have been denied work by Respondent-2 on the ground that there was no work for the petitioners who were only engaged for rice cleaning earlier and that he was not engaging any one for that purpose. The petitioners, however, allege that the Respondents are engaging others for doing the work which used to be done by the petitioners earlier.

3 Respondents have filed a reply denying that any contempt has been committed. They drew attention to the fact that on 14.2.89 itself the Senior Central Government Standing Counsel, while opposing the continuance of the interim order, submitted that the applicants were engaged on a casual basis only for the purpose of rice cleaning and ~~not for~~ other work. As such work did not arise thereafter, the applicants were not engaged for that purpose. The interim order of 14.2.89 requires Respondent-2 to employ them only for rice cleaning which was their status quo and not in any other capacity.

4 We have perused the records of the case and heard the learned counsel on either side. We were also somewhat surprised that in respect of a work for which each of the four petitioners were employed for around 200 days

in each of the 3 years ending 1988, the Respondents submitted that no work is available for rice cleaning since February, 1989 and that, therefore, the applicants were not engaged. The learned counsel for the Respondents pointed out that this is not a sudden development nor is it that the applicants have been denied employment because they approached the Tribunal for relief. On the contrary, during the first $1\frac{1}{2}$ months in 1989, three of the petitioners were engaged only for 10 days each and one was engaged only for 5 days. This clearly shows that when the work had contracted severely. It is only/they were refused employment that they came to the Tribunal with OA 85/89 which is still pending.

5 The reason for this development was stated by the learned Senior Central Government Standing Counsel as follows, based on the information he is received from Respondent-2.

" The Base Victualling Officer, Cochin has discontinued issue of cleaned rice to ships and establishments. Therefore, no rice cleaners is engaged by him since the 2nd week of February, 89".

In other words, the organisation wherein the petitioners were earlier employed as Casual Labourers for rice cleaning, took a decision in the second week of February to discontinue the issue of cleaned rice, meaning thereby that the rice as received from the supply agency was issued to various parties by Respondent-2 without further cleaning. It is as a result of this decision that the

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applicants were not given work in February, 1989 which prompted them to approach the Tribunal in OA 85/89.

6 Having heard the counsel of Respondents we are satisfied that in so far as they are concerned, they have interpreted the interim order dated 14.2.89 consistently all along. For, they have already maintained that the petitioners were employed for rice ~~the Respondent-2~~ cleaning purposes and as L has now ~~been~~ stopped that practice, the question of engaging the petitioners ~~does not~~ arise. Therefore, as far as the Respondents ~~are~~ is that ~~are~~ are concerned, the statusquo of the petitioners ~~is only~~ only to be engaged in rice cleaning operation if and when ~~A~~ required. As such operation is not now required, the petitioners have not been engaged and this does not constitute any contempt. We agree with this submission.

7 Accordingly, we dismiss this petition. There will be no order as to costs.

N Dharmadan
(N Dharmadan)

Judicial Member

1.12.89

NV Krishnan
(NV Krishnan)

Administrative Member

1.12.89