

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
~~L. A. No.~~

41/90

~~199~~

DATE OF DECISION 30.8.91

P.Hamza Koya Applicant (s)

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

Versus

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

Mr.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? ☒
2. To be referred to the Reporter or not? ☒
3. Whether their Lordships wish to see the fair copy of the Judgement? ☒
4. To be circulated to all Benches of the Tribunal? ☒

JUDGEMENT

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

In this application dated 7.1.1990 the applicant who has been working as Casual Labourer in the Primary Health Centre of Lakshadweep Administration has prayed that the respondents be directed to grant him the same wages as is admissible to regular Class IV employees with arrears of wages.

2. The applicant has been working continuously since 13.4.1981 at a daily rate of Rs.24.75 per day. According to the applicant his work includes spraying of insecticides at ponds, drain gates for anti-mosquito and insecticide operation. He avers that his counterparts in the regular Class IV cadre are designated as Filaria Field Workers and his job is ^{the} same and identical as theirs, but while the Filaria Field Workers are given the Class IV scale

of Rs.750-940 he is being given Rs.24.75 per day. He has referred to several judgements of the Supreme Court upholding the doctrine of 'equal pay for equal work' and the fact that the CPWD has already decided to implement the judgment of the Supreme Court in Surendra Singh's case (Surendra Singh vs. Engineer-in-Chief, CPWD, 1986 (1) SCC 639). He has also referred to the O.M. of 7.6.88 issued by the Department of Personnel in which inter alia it has been laid down that where the work of casual workers and the regular employees is the same, the casual worker is to be paid at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for the work of 8 hours a day. The applicant and others similarly placed represented to the respondents on 28.7.1989(Annexure-2) without any favourable response from the respondents.

3. In the counter affidavit the respondents have stated that the applicant was engaged as Casual Labourer to assist the regular field workers as and when required and his work is not identical or similar to that of regular Class IV employees, but they have conceded that Casual Labourers are also asked to carry out spraying of insecticides as and when required to kill mosquitoes but the Casual Labourers are not independently discharging the work of field workers. They have distinguished the work of Casual Labourer in their department from that of Casual Labourer in CPWD by stating that in the latter case, the work between the regular employees and casual workers is of similar nature. They have, however, conceded that the applicant is getting Rs.24.75 per day as a skilled labourer while

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the unskilled labourers are getting Rs.18/-.

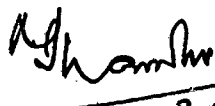
4. In the rejoinder the applicant has stated that like the Filaria Field Worker in the regular cadre the applicant is also discharging the duties of spraying of insecticides and surveillance operations and denied the averment that he is only assisting the field workers. He has also referred to the proceedings at Annexure-III where the applicant along with three other casual workers of the Public Health Department were granted adhoc bonus for works like garbage removal, chlorination of wells , anti-filarial works. Similarly the applicant has been described as being engaged in anti-filarial works at Annexures-IV and V issued by the respondents.


5. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. During the course of the arguments the learned counsel for the respondents was directed to produce any document to show that the applicant as casual labourer has not been working independently, but attached to regular Group D employees. He was also directed to produce the work allotment register of casual labourer and Group D employees. In spite of sufficient time being given, the learned counsel for the respondents on the basis of telegraphic instructions from the respondents stated that there is no separate register or document which can be produced to show that the applicant did not work independently and was merely attached to regular Group D employees.

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The orders issued by the respondents themselves at Annexures III, IV and V show that the applicant was being engaged in anti-filaria works including garbage removal and chlorination of wells. It has also been conceded by the respondents that the Casual Labourers are also asked to carry out spraying of insecticides in ponds and human dwellings as and when required to kill mosquitoes. It has also been conceded by them that the applicant after passing the trade test is working as a skilled labourer at a daily rate of Rs.24.25. According to the applicant the minimum of the pay scale of Class IV doing similar duties is Rs.750/- 1/30th of which comes to Rs.25/- per day. The applicant is being given Rs.24.75 per day. There is, therefore, no reason why in accordance with the various rulings of the Supreme Court, the applicant also should not be given 1/30th of the minimum of the pay scale of regular Filaria field workers as daily wages. In Dhirendra Chamoli and another vs. State of U.P., (1986)1 SCC 637 the Supreme Court allowed the casual workers on daily wages basis performing the same duties as performed by regular Class IV employees the same salary and conditions of service as were being received by Class IV employees except regularisation which cannot be done since there are no sanctioned posts. In Srinder Singh and another vs. Engineer-in-Chief, CPWD and others, (1986)1 SCC 639 the Hon'ble Supreme Court on the principle of 'equal pay for equal work' allowed the daily wage workers of CPWD doing identical work as that of regular and permanent employees the same salary and allowances as are paid to regular and permanent employees. In this case since the respondents have conceded that the

applicant is also being engaged to do the same work as is done by anti-filarial field worker like disinfecting ponds and spraying etc. and the respondents have not been able to produce any evidence to show that the applicant is merely assisting the Class IV field workers, we allow the application with the direction that the applicant should be paid daily wages at the rate of 1/30th of the pay at the minimum of the pay scale of Rs.750-⁴940 plus dearness allowance for the work of 8 hours a day. 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.


30.8.91
(N.Dharmadan)
Judicial Member


(S.P.Mukerji)
Vice Chairman

R.A. 23/92

m. CCP. 24/92.

6/3/92

Mrs. N. N. Srinivasan

M. Usuph - In the petitioner in CCP.

Heard the learned Counsel for the Review Applicant. List for further directions on R.A. on 8.4.92 before this Bench.

Sd/-

N.D.
6.3.92

S.D.M.
6.3.92

M.

As the Bench consisting of Honble V.C. & J.M.I. is not sitting on 8.4.92, and since the CCP 24/92 stands posted to 9.4.92, it may kindly be considered whether this R.A. may also be posted along with C.C.P. on 9.4.92. Honble V.C. will be returning from Delhi on 15.4.92.

Submitter for orders

B
7/4/92

The Honble J.M.I.

Post this R.A. before Bench along with CCP. For information so that appropriate order can be passed. 2/4/92.

F-0

FO issued
R.C.C. cleared

NVK & ND

RA 23/92 IN CCP 24/92
IN OA 41/90

(10) Mr. PS Usuph
SCGSC by Proxy.

This RA has been presented by the original respondents in OA 41/90 seeking clarification of the interim order dated 5.3.92 passed in the said OA.

When the matter came up for hearing to-day, the learned counsel for the review applicant submitted that since the CCP is closed consequent on the implementation of the original order passed in the above OA, there is no substance in this RA. ^{Hence} ~~and is~~ ~~therefore~~ closed as having withdrawn.

N.D.
(N. Dharmadan)
Judicial Member

(NV Krishnan)
Administrative Member

9.4.92

SPM DVD

(17)

Mr. P. S. Usuph

on N. N. Sugunapalan case by P. M.

At the request of the learned
counsel for respondents list for further
direction on 27.2.92.

18/2/92
S. M.

SPM DVD

(13)

Mr. P. S. Usuph

on P. K. Madhusoodhanan for case

At the request of the learned
counsel for respondents, who wishes to file
statement, list for further direction on

3.3.92

Madhu
ND
27/2

S. M.
SPM
27/2

SPM & ND

(28) Mr. PS. Usuph
SCGSC by Mr. Unnikrishnan

A Statement has been filed by the learned counsel
for the respondents. List for further directions on
5.3.92.

Madhu
ND

S. M.
SPM

3.3.92

5.3.92 Mr. PS. Usuph
Mr. Madhu-rep. SCGSC

This is an application filed by the original
applicant for taking action ^{for} Under Contempt. of Court Act. 42
According to the applicant there is direction in the
judgment in O.A. 41/90 dated 30.8.91 that the applicant
should be paid wages @ 1/30th of the pay at the minimum
of the pay scale at Rs. 750-940 plus Dearness Allowance
for the work of 8 hours per day. The arrears and wages
should be paid to him within a period of three months
contd...

from the date of communication of the judgment. The applicant submitted that the payment has not been made within that period in site of information has been given to him. ^{reply. 42} Hence they (the respondents) violated the order and committed contempt.

The CCP came up for hearing on 18.2.92. We have given time upto 27.2.92 but on that date also the respondents took time. Accordingly it was taken up on 3.3.92. On that day at the request of the ^{learned} counsel for respondents it was adjourned to today. The respondents have filed a statement today in which the stand taken by them is that there is a proposal to take up the matter before the Supreme Court. Accordingly they seek some more time. The respondents have not chosen to file an application for extension of time within the period already fixed by this Tribunal.

Having regard to the facts and circumstances of the case, we are prima facie of the view that the respondents have not complied with the direction in the spirit in which it has been issued. In this view of the matter we feel that the personal appearance of Shri S.P. Agarwal, Administrator, U.T. of Lakshadweep Kavarathi is necessary for disposal of this matter. Accordingly we direct the first respondent (Shri S.P. Agarwal, Administrator, U.T. of Lakshadweep) to appear in person before this Tribunal on 9.4.1992 at 10.30 am for explaining the position.

A copy of the above order may be given to the learned counsel for the respondents (Shri NN Sugunapalan) by hand. ^{for communication to the party. 42}

N. D. Harmadan
(N.D. HARMADAN)
JUDICIAL MEMBER

S. P. Mukerji
(S.P. MUKERJI)
VICE CHAIRMAN

5.3.92

1.0.1992

PA
5/3

NVK & ND

(10) Mr PS Usuph
SCGSC by proxy.

The learned counsel for the respondents submits that the payment due to the applicant relating to the original judgment of the Tribunal has already been paid on 4.4.92. The learned counsel for the applicant admits that such payment has been made. In this view of the matter we find that nothing is left in the CCP and is therefore, closed.

We discharge the notice issued to Shri SP Agarwal, Administrator, UT of Lakshadweep, Kavarathi as directed on 5.3.92.

N. Dharmadan
(N Dharmadan)
Judicial Member

N. Krishnan
(NV Krishnan)
Administrative Member

9.4.92

Order issued
5.5.92
F.O.
R. V. R.
m. B. R.