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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

O.A.No.167 of 1990

Krishi Karamchari Sabha & anotherApplicant_s

Versus

Union of India & anotherRespondent_s

Hon'ble Mr.K.Obayya,A.M.

Hon'ble Mr.S.N.Prasad,J.M.

(By Hon'ble Mr.K.Obayya,A.M.)

Applicant no.1 is the Krishi Karamchari Sabha,Lucknow and the applicant no.2 is one Bhola Nath s/o Visheshwar- President of the said Sabha.

2. This application has been filed by the applicants for direction to the respondents to pay equal wages to the employees mentioned in Enclosure A-1. It is stated in this application that the employees whose names are mentioned in Enclosure-A1 are Malis, Watchmen, peons, Lab-attendants etc. in the office of respondent no.2 and also at the Agriculture Farm situated at Rae Barelli Road Campus,Lucknow and that the employees were appointed on different dates between 5.2.79 to 22.10.80. They have been working continuously from the date of their appointment but they are getting only Rs.468/- p.m. as salary/wages.and the employees are not being paid the wages on Sunday and other holidays .The contention of the applicants is that they are performing duties of Malis,Watchmen, Peons,Lab-attendants etc. but they are not being paid the salary of the regular employees. The regular employees are getting salary of Rs.1100/- p.m. It is assailed that the treatment meted out to the employees who are working on casual basis, is discriminatory, arbitrary and is violative of Articles 14 and 16 of the Constitution of India. The employees are entitled for equal pay for equal work.

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3. In the counter, filed by the respondents, it is stated that the Organization named as Krishi Karamchari Sabha, Lucknow is a local arrangement and that no registration number nor any registration certificate is mentioned in the petition. It is also stated that the duties assigned to the casual workers are not specific and they perform different work from time to time as and when necessity arises. It is also pointed out that the casual labourers have been engaged for the various type of work as per day to day requirement. They are not holding any appointment nor any appointment letters were issued to them and as such question of payment of salary on the principle of equal pay for equal work does not arise. These employees only assist the regular employees and they do not perform specific duties. Thus, there is no comparison between the nature of appointment, and the duties performed by the regular employees and the casual workers. It is also stated that the casual workers will also be considered for absorption on regular vacancies as and when the regular vacancies arise, provided the casual workers are found suitable and the efforts are being made to regularise as many casual workers within the financial constraints and the posts sanctioned.

4. We have heard the learned counsel for the parties. The learned counsel for the respondents contended that certain qualifications are prescribed for the posts; like Lab. attendant, Mali etc and unless these qualifications are satisfied, it would not be possible for them to absorb the casual labourers on such posts. Certain qualifications are a pre-requisite. He also raised preliminary objection that the application was not maintainable

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inasmuch as it has been filed by Organization Society and nor there is any specific order by which the applicants ^{are} ~~is~~/aggrieved and the application would be entertained only in respect of applicant no.2. He also stated that the applicants also preferred no representation which is pre-mature. There is no discrimination between the casual labourers and regular employees inasmuch as the duties performed by the regular employees are quite different from the duties performed by the casual workers.

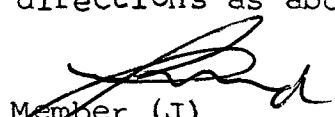
5. The learned counsel for the applicants contended that the applicants are performing same duties as Casual Labour and that they have been working for more than a decade and it cannot be said that they are assisting regular Casual labour. The applicants are given work in the office and also do out door work as Malis etc. He also pointed out that there was a settlement between the workers and the management by which the service of 106 Casual Labours were regularised. He also showed a copy of that order. Ofcourse this settlement will not benefit the applicants as they are not party to it. The learned counsel for the applicants relied on the decision of Supreme Court on the point of equal pay for equal work. The learned counsel for the respondents countered this by saying that there is no dispute about the principle of equal pay for equal work, but here in this case the applicants are not performing equal work of regular employees. The situation for payment of equal pay for equal work arises only when the duties are similar or same, but ~~xxxx~~ regular employees are paid a scale of pay while it is denied to those who are on casual engagement though they performed same duties as regular employees. He also stated that the

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applicants are employed in a society which is financed by the Government which itself has a limited resources and the Casual Employee only work when their work and not otherwise.

6. Having given our serious consideration to rival contentions, the controversy in this case is whether the applicants are performing same duties as Regular Employees. It is also stated that the applicants have not made any representation and brought their grievances to the notice of the respondents. In these circumstances we are of the view that the matter can be considered by the respondents taking into consideration the number of days work done by the applicants and whether they could be fitted into continuous and regular employment. The applicants have stated that they are not being given work on sundays and holidays. Since the question of equal pay for equal work is related to the facts in a case. We are not able to say one way or the other and the applicants have not made out the case that duties performed by them are the same as the regular employees. They can represent this matter to the respondents. The respondents are also directed to consider the cases of such of the applicants in preference to out-siders and others for regularisation when the vacancies that exist or may arise in future, provided, as are found suitable and absorb them on regular basis. The applicants may represent their cases for equal pay for equal work with full justification to the respondents who may sympathetically be consider/ taking into consideration over all the same interest and also the "human element" in organization. The application is disposed of with the observations and directions as above. Parties to bear their own costs.


Member (J).
Dt: Oct 23rd 1992.
(DPS)


Member (A).