

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 762/96

Date of Decision: 17.11.1997

Smt.Mangala V.More & Ors.

Applicant.

Shri R.P.Saxena

Advocate for
Applicant.

Versus

Union of India.

Respondent(s)

Shri R.K.Shetty.


Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. B.S.Hegde, Member(J).

Hon'ble Shri. -

- (1) To be referred to the Reporter or not? *o*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *o*


(B.S.HEGDE)
MEMBER(J).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 762/1996.

Monday, this the 17th day of November, 1997.

Coram: Hon'ble Shri B.S.Hegde, Member(J).

1. Smt. Mangala V. More
Casual Worker,
Canteen Stores Department
Station Road, Sarvatra Bhawan
BAREILLY CANTT. - 243 004
2. Shri Lal Bahadur Yadav
Casual Worker,
Canteen Stores Department
B.B. Cantt., P.O. Batwara
SRINAGAR - 190 001 (Kashmir)
3. Shri Urman Ali
Casual Worker,
Canteen Stores Department
B.B. Cantt., P.O. Batwara
SRINAGAR - 190 001 (Kashmir)
4. Shri Vishnu A. Jadhav
Casual Worker,
Canteen Stores Department
B.B. Cantt., P.O. Batwara
SRINAGAR - 190 001 (Kashmir)
5. Shri S.B. Sawant
Casual Worker,
Canteen Stores Department
Bari Brahmana Jammu
JAMMU - 181 133 (J&K)

6. Shri Govind R. Sapte
Casual Worker,
Canteen Stores Department
Bari Brahmana Jammu
JAMMU - 181 133 (J&K)
7. Shri A.V. Rangpise
Casual Worker,
Canteen Stores Department
Bari Brahmana Jammu
JAMMU - 181 133 (J&K)
8. Shri S.B. Gorle
Casual Worker,
Canteen Stores Department
Bari Brahmana Jammu
JAMMU - 181 133 (J&K)
9. Shri Bankey Lal Yadav
Casual Worker,
Canteen Stores Department
Opp. Tel-Com. Stores Depot (Annex)
Gandhi Nagar
COCHIN - 682 020
10. Shri Chhedi Lal Verma
Casual Worker,
Canteen Stores Department
Opp. Tel-Com. Stores Depot (Annex)
Gandhi Nagar
COCHIN - 682 020

Be

11. Shri Pradeep Rade
Casual Worker,
Canteen Stores Department
Opp. Tel.Com. Stores Depot (Annex)
Gandhi Nagar
COCHIN - 682 020
12. Shri Vinod Mohite
Casual Worker,
Canteen Stores Department
Well Road, Head Post Office
BIKANER - 334 001
13. Shri Ashok Kumar Gupta
Casual Worker,
Canteen Stores Department
Well Road, Head Post Office
BIKANER - 334 001
14. Shri A.J. Tonwalkar
Casual Worker,
Canteen Stores Department
Well Road, Head Post Office
BIKANER - 334 001
15. Shri Chandrakant D. Shelar
Casual Worker,
Canteen Stores Department
Well Road, Head Post Office
BIKANER - 334 001
16. Shri Shantaram Gowalkar
Casual Worker,
Canteen Stores Department
Opp. Tel-Com. Stores Depot (Annex)
Gandhi Nagar

17. Shri N.G. Shinde
Casual Worker,
Canteen Stores Department
Bari Brahmana Jammu
JAMMU - 181 133 (J&K)
18. Shri Vithal K. Hulawale
Casual Worker,
Canteen Stores Department
Bari Brahmana Jammu
JAMMU - 181 133 (J&K)
19. Shri Shamrao T. Kamble
Casual Worker,
Canteen Stores Department
Bari Brahmana Jammu
JAMMU - 181 133 (J&K)
20. Shri Suryakant N. Tarphe
Casual Worker,
Canteen Stores Department
Bari Brahmana Jammu
JAMMU - 181 133 (J&K)
21. Shri Gopinath M. Janu
Casual Worker,
Canteen Stores Department
B.B. Cantt., P.O. Batwara
SRINAGAR - 190 001 (Kashmir)

18/2

22. Shri Rajaram M. Mungekar,
Casual Worker,
Canteen Stores Department,
B.B. Cantt. P.O. Batwara,
Srinagar - 190 001 (Kashmir). ... Applicants.

(By Advocate Shri R.P. Saxena)

V/s.

Union of India, through
The General Manager,
Canteen Stores Department,
ADELPHI 119, M.K. Road,
Bombay - 400 020. ... Respondent.

(By Advocate Shri R.K. Shetty)

O R D E R

(Per Shri B.S. Hegde, Member(J))

Heard Shri R.P. Saxena, counsel for the applicant and Shri R.K. Shetty, counsel for the respondents. The counsel for the applicant Shri Saxena brought to my notice a Circular issued by the Respondent Department on 8.3.1996 on the basis of the Department of Personnel & Training Circular dt. 10.9.1993 based on the decision rendered by the Principal Bench in the case of Shri Rajkamal and Ors. V/s. UOI, wherein a policy decision has been taken by the DOPT w-hich is circulated to all the Ministries stating that while the existing guidelines contained in O.M. dt. 7.6.1988 may continue to be followed, the grant of temporary status to the casual employees, continuous service in Central Government Offices other than Department of Telecom, Posts and Railways may be regulated by the Scheme as appended. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993". The scheme will come into force w.e.f. 1.9.1993.

2. The contention of the counsel for the applicant is


that the applicants were Casual Labourers since 1983 to 1987 and have put in more than 240 days of work continuously and thereby temporary status granted by the respondents vide order dt. 9.8.1995 is contrary to the rules laid down by the DOPT Circular. It is submitted that the respondents should have given the temporary status w.e.f. 1.9.1993. In support of his contention the counsel for the applicants relied on the decision in O.A. No.183/91 delivered on 4.8.1994, wherein the Tribunal after considering the rival contentions of the parties have observed that 63 applicants have filed the application challenging the verbal termination on 9.3.1990 after the judgment was delivered on 15.2.1990, the verbal termination passed by the respondents is found to be illegal and treated as non-est in the eye of law which has not been disputed by the respondents in the written statement and is not in dispute. It is further observed, that the termination without setting out reasons would mean no termination at all. The applicants shall be deemed to have continued in the service of the respondents. The prayer in the present O.A. is limited only to 28 applicants. Out of 63, 35 of them have been regularised and the remaining 28 workmen whose name is appearing in Annexure-C-5. With regard to the others, since it is treated as illegal termination on 9.3.1990 and accordingly they were reinstated with full back wages.

3. In the light of the above, the action of the respondents is not justified in granting temporary status from 1995. Accordingly, I direct the respondents

Am

to reinstate the applicants with full back wages from the date of termination i.e. 9.3.1990. On the other hand, the counsel for the Respondents Shri Shetty submitted in reply that pursuant to the direction of this Tribunal, the respondents have granted temporary status w.e.f. August, 1995 as the applicants were not in service from 1990 to 1994 till reinstatement and after completion of one year they have been granted temporary status, therefore, the question of granting them the temporary status from 1.9.1993 does not arise. The said contention of the respondents is not tenable because by virtue of the decision of this Tribunal the respondents have paid back wages and deemed to have continued the applicants and others whose services have been regularised and treated in service from 1990 onwards. Apart from that, the applicants had already put in 240 days of continuous service prior to 1990 and on the basis of the Circular issued by the DOPT they should have been granted temporary status w.e.f. 1.9.1993.

4. In the result, the prayer made by the applicants is allowed and the respondents are directed to give the applicants temporary status w.e.f. 1.9.1993 and not 9.8.1995. Accordingly, the order dt. 8.3.1996 is hereby quashed and set aside. The benefit flowed from this order under the scheme shall be paid to the applicants within a period of three months from the date of receipt of this order. The O.A. is disposed of accordingly. No order as to costs.


(B.S. HEGDE)
MEMBER (J).

B.

C.P.N. 44/98
Held by applicant
no. 13, held
on 18.9.98

2
919

Dated: 18.9.98 (40)

Shr R. P. Saxena, Counsel for the
applicant.

22/9
24/9

Issue notice on C.P. 44/98
to the respondents returnable by
30.10.98.

(D.S. Bawya)
m(A)

(R.G. Vaidyanatha)
VC

Notice issued to
Applicant/Respondents on
5/10/98

8
6/10

Dated: 30.10.98 (39)

Shr R. P. Saxena, Counsel for the
applicant. Shr R. G. Shetty, Counsel for
the respondents.

Adjourned to 20.11.98.

(D.S. Bawya)
m(A)

(R.G. Vaidyanatha)
VC

Reply to CP 44/98
is received
MS

Per Tribunal

Date: 20/11/98

Applicant in person by Mr. R.P. Saxena
Advocate / Respondent by Mr. R.G. Shetty
Counsel. No 43 today

The matter adjourned to
for C.P. 44/98

Dy. Registrar

Dated: 11.12.98 (51) C.P. 44/98

Shr R.P. Sascena, Counsel
for the applicants Shr R.R. Shetty
for Shr R.K. Shetty, Counsel for
the respondents.

After hearing both sides,
we find that whatever amount
claimed in this C.P. have been
paid to the applicants. Therefore
C.P. 44/98 will not survive
for consideration. The contention
of the applicants is that he
has not paid the Productivity
Linked Bonus. It is left to
the respondents to pay whatever
amount payable to the applicants.
It is left to the applicants to
take proper action as per rules.
C.P. is disposed of accordingly.

2/11/99
16/11/99
12/12/99

Order/Judgment despatched
to Applicant/Respondent (s)
on 4/1/99.

5/1/99

(D.S. Banerjee)
MIA

(A.G. Vaidyanatha)
VC