

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\*\*\*\*\*

Commercial Complex(BDA)  
Indira Nagar  
Bangalore - 560 038

Dated : 4.2.87

Application No. 975 to 981/86(T) & ~~983 to 995/86(T)~~

W.P. No. 42244 to 42250/82 & 42496 to 42508/82

Applicant

T. Gopal Gowda & 20 Ors.

To

Respondents,

The Secretary  
M/o.Railways,N.Delhi & Ors.

Shri K. Subba Rao, Advocate,  
128, Cubbonpet Main Road  
Bangalore-560 002.

Shri N. Santosh Hegde,  
Advocate General  
High Court of Karnataka Buildings,  
Bangalore-560001.

Shri M. Srrerangaiah, C.G.S.C.

1. The Secretary,  
Ministry of Railways, N.Delhi.
2. The General Manager,  
Southern Railway, Madras-3.
3. The Chief Engineer, (Construction)  
Sout'ern Rly, Millers Road,  
Bangalore-46.
4. The Divl. Rly Manager,  
S.Rly, Mysore Divn, Mysore.
5. The Executive Engineer,  
(Construction)Hassan- Mangalore  
Rly Project, Sakaleshpur, Hassan

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH IN

APPLICATION NO. 975 to 981/86 and 983 to 995/86(T)

Please find enclosed herewith the copy of the Order/~~Interim Order~~  
passed by this Tribunal in the above said Application on 30-01-1987.

Encl : As above

Copy to file no 995/86(T)  
Ans 983

By Venkatesh  
DY. REGISTRAR  
~~EXERCISING & PRACTICING~~  
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH BANGALORE

DATED THIS THE 30th JANUARY 1987

Present : Hon'ble Shri Ch. Ramakrishna Rao - Member (J)

Hon'ble Shri L.H.A. Rego - Member (A)

APPLICATION Nos. 975 to 981/86  
and 983 to 995/86

1. T.Gopal Gowda (A.No. 975/86)

Illahalli, P.O. Sante Maroor

Taluk : Arakalagud

Dist: Hassan

2. B.Thammanna Gowda (A.No. 976/86)

Malalikere Village

P.O. Mokali

Taluk : Arakalagud

Dist: Hassan

3. R.Mahadevappa (A.No. 977/86)

Yediyur Doddabemitti

Taluk: Arakalagud

Dist: Hassan

4. A.Saake Gowda (A.No. 978/86)

Yediyur Doddabemitti

Taluk : Arakalagud

Dist: Hassan

5. Thammanna Gowda (A.No. 979/86)

Dummi village

Sante Maroor P.O.

Taluk : Arakalagud

Dist: Hassan

6. K.Govinda Gowda (A.No. 989/86)

Kyatanahallikoppelu

P.O. Kattimallinahalli

Taluk : Arakalagud

Dist: Hassan

7. D.Swamy Gowda (A.No. 981/86)

Malalikere village

P.O. Mokali

Taluk : Arakalagud

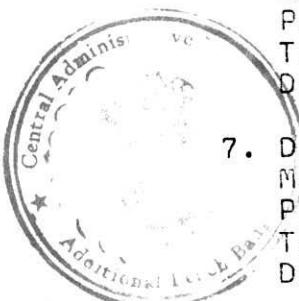
Distt: Hassan

8. T.Range Gowda (A.No. 983/86)

Hassan Mangalore Railway

Kandli P.O.

HASSAN Taluk & Distt



Ch

9. Anne Gowda (A.No. 984/86)  
Madabalu village & P.O.  
Alur Taluk  
Hassan District
10. S.Rame Gowda (A.No. 985/86)  
Madabalu village & P.O.  
Alur Taluk, Hassan District
12. Doddha Setty (A.no. 986/86)  
Rajanahalli  
P.O. Doddakanagel  
Alur Taluk  
Hassan District
13. Venkatesh (A.No. 987/86)  
Agasarahalli  
P.O. Hunasahalli  
Taluk Alur  
Dist: Hassan
14. M.Thimme Gowda (A.No. 988/86)  
Agasarahalli  
P.O. Hunasahalli  
Taluk : Alur  
Distt: Hassan
15. Smt. Manjamma (A.No. 989/86)  
Agasarahalli  
P.O. Hunasahalli  
Taluk : Alur  
Hassan Dist
16. K. Thimmaiah (A.No. 990/86)  
Yadur  
P.O. Hunasahalli  
Taluk :Alur  
District : Hassan
17. Somachari (A.No. 991/86)  
Barthavalli, Hunasahalli P.O.  
Alur Taluk, Hassan Dist
18. Manjaiah (A.No. 992/86)  
Hale Alur  
PO & Taluk:Alur  
Dist: Hassan
19. Bettaiah (A.No. 993/86)  
Chikkakenderkula  
P.O. Dasarakaplu  
Taluk & Distt : Hassan



20. Puttaswamy Gowda (A.No. 994/86)  
Eachalahalli  
P.O. Kandali  
Tq & Distt : Hassan

21. Anwar (A.No. 995/86)  
Village & P.O. : Kadali  
Taluk & Distt : Hassan

- Applicants

(Shri K. Subba Rao, Advocate)

and

1. The Union of India represented by  
The Secretary to Government of India,  
Ministry of Railways, New Delhi
2. The General Manager,  
Southern Railway,  
Park Town, Madras 3
3. The Chief Engineer, Construction  
Southern Railway  
No. 18, Millers Road, Bangalore 560046
4. The Divisional Railway Manager  
Southern Railway  
Mysore Division, Mysore
5. The Executive Engineer, Construction,  
Hassan-Mangalore Railway Project,  
Sakalashpur, Hassan District

- Respondents

(Shri N. Santosh Hegde, Advocate General  
and Shri M. Sreerangaiah, Advocate)

These applications came up for hearing before  
the Tribunal and Hon'ble Sri Ch. Ramakrishna Rao, Member (J)

to-day made the following

O R D E R

Rapid progress in the acquisition of know-how,  
especially in the twin fields of engineering and technology  
during half a century past has rendered it possible to

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construct strong and long bridges on highways and lay railway lines connecting places far and near in the country. This achievement is due to the skill displayed by the engineers in charge of huge projects but it should not be forgotten that the projects of the kind aforesaid could not have taken shape but for the vital role played by casual labourers of both sexes, who toil from dawn to dusk - some times during night, unmindful of the adverse weather and physical ~~comfort~~ <sup>strain</sup>. The complaint of such labourers is that they are treated as birds of passage and their services retrenched after completion of the projects as a result of which they find it difficult - nay, impossible, in the long run - to keep the pot boiling besides the hardship caused to them in the minimum maintenance of their families. The complaint, in short, is that they are left in the lurch due to the retrenchment effected after completion of the projects. The applicants, in these applications, voice this complaint and seek redressal to the extent possible legally.

2. These two composite applications were initially filed as writ petitions in the High Court of Karnataka and subsequently transferred to this Tribunal. The facts giving rise to the applications are epitomised in the following paragraph.



3. In the course of the construction of the  
('MHRL')  
Mangalore-Hassan Railway line, 200 Km long, a large  
number of casual labourers ('CLs') were employed for  
doing different types of work. The applicants are  
among the CLs so recruited <sup>with</sup> service ranging from  
5 to 7 years in the Southern Railway ('SR'). After  
completion of the project they were retained in service  
for some time. Their services were utilised for a few  
months in Ananthpur upto 23.11.81 and thereafter recalled  
by SR to work at Sakaleshpur for looking after the  
maintenance of MHRL. In view of their long service  
the applicants were entitled for absorption on a  
permanent basis for the maintenance work of MHRL.  
Without absorbing them, SR issued one month's notice  
of termination of their service in terms of and in  
compliance with the provisions of Section 25F of the  
Industrial Disputes Act 1947 ('ID Act'). Samples of  
such notices are at Annexures H to L. Aggrieved by  
these notices, the applicants have filed these two  
composite applications.

4. Shri K. Subba Rao, learned counsel for the  
applicants, strenuously contends that there were several  
posts against <sup>which</sup> the services of his clients could have  
been utilised and as such the notices issued by SR  
terminating their services is not legally sustainable.  
The learned ~~respected~~ Advocate General appearing for the  
respondents submits that there were no posts in SR



against which ~~the~~ services of the applicants could have been utilised; that SR acted bona fide in issuing <sup>and it is</sup> the notices of termination is apparent from the fact that their services were utilised for a few years even after the work relating to MHRL project was completed; as <sup>such</sup> ~~that~~ the applicants have no right for absorption. <sup>and</sup>

5. In our view the question whether there was need for retrenchment turns on administrative considerations such as elimination of dead weight of uneconomic surplus. We find no valid ground for holding that the retrenchment was motivated and we, therefore, uphold the submission of the learned Advocate General.

6. The main thrust in the arguments of Shri Subba Rao is that the applicants are governed by the provisions of Chapter VII B of the ID Act and notices of three months under Section 25N should have been given instead of one month under Section 25F of Chapter VI A of the ID Act. The learned Advocate General on the other hand invites our attention to the definition of 'industrial establishment' <sup>ID</sup> as given in Section 25L of the Act which reads

"25-L. ... For the purposes of this Chapter,--  
(a) "industrial establishment" means--

- (i) a factory as defined in clause (m) of section 2 of the Factories Act, 1948;
- (ii) a mine as defined in clause(j) of sub-section(1) of section 2 of the Mines Act, 1952; or
- (iii) a plantation as defined in clause(f) of section 2 of the Plantations Labour Act, 1951;"

and submits that the activities of SR in laying railway <sup>road</sup> lines does not fall under any of the categories enumerated in

the definition extract above since the Railways is not a factory.

5. This leads <sup>us</sup> to a consideration of the definition of ~~factory~~ as given in the Factories Act, 1948. The relevant provisions therein read as follows:

"2(m) "factory" means any premises including the precincts thereof -

- (i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or
- (ii) whereon twenty or more workers are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on.

xxx

xxx

xxx

Section 2(k) of the Act which defines the words 'manufacturing process' reads:

"(k) "manufacturing process" means any process for -

- (i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or
- (ii) pumping oil, water, sewage or any other substance; or
- (iii) generating, transforming or transmitting power; or
- (iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding; or
- (v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or
- (vi) preserving or storing any article in cold storage."

\*From the above definition it is clear that in order that an industry is factory, inter alia, it must fulfil two important conditions, namely,

(i) It must carry on a manufacturing process, and

(ii) that such manufacturing process must be carried on in a premises.\*

Shri Subba Rao maintains that the activities of the Railways falls within the scope of the manufacturing process since laying of railway lines or conversion of railway lines from one gauge to another amounts to a manufacturing process and in support of his argument relies upon three decisions (i) Ardeshir v Bombay State AIR 1962 S.C. p.29 in which the Supreme Court held

\*that open land in which manufacturing of salt takes place is a factory. Interpreting the 'premises' used in section 2(m) of the Factories Act, the Supreme Court, repelling the contention that 'premises' means building and not open land, said thus: 'It is therefore clear that the word premises is a generic term meaning open land or land with building.'

(ii) Gopala Rao v. Public Prosecutor AIR 1970 S.C. p.67

where in the Supreme Court held that

\*the subjecting sun-cured tobacco to the process of moisturing, stripping and packing in a company's premises was a manufacturing process\*

(iii) Gateway Auto Services, Bombay v The Regional Director 1980 II L.L.J. p.255 in which the Bombay High Court held

"that petrol pumping activity, carried on at a petrol bunk was manufacturing process"

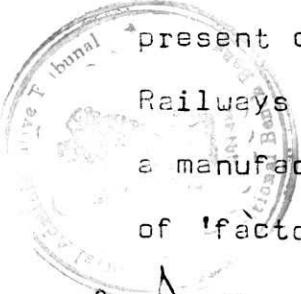
6. The learned Advocate General seeks to distinguish the decisions relied upon by Shri Subba Rao. Regarding

*(Signature)*

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decision supra,  
the first, he submits that manufacture of salt though done on open land was regarded as manufacturing process but in the present case there is no manufacture of any article involved except the task of laying railway lines on open land. Regarding the second, he submits that when a company subjects sun-cured tobacco to ~~any~~ <sup>any</sup> process in the premises of the company it becomes a manufacturing process but in the present case there is no premises of the Railways in which any article is subjected to a process of the kind mentioned. Turning to the third, he submits that activity of petrol bunk involves the process of transfer of petrol from the tank of the petrol bunk to the tank of a vehicle. There is no such process in the present case.

7. After giving careful thought to the matter we are satisfied that the decisions relied upon by Shri Subba Rao are distinguishable from the facts of the present case, and as such have no application and the Railways cannot be regarded or treated as carrying on a manufacturing process so as to attract the definition of 'factory' as defined in the Factories Act 1948.



*C. S. J.*

8. Confronted with several difficulties in bringing the case of the applicants within the four corners of Sec. 25(N) of the Act, Shri Subbarao challenges the constitutional validity of Sec. 25-L occurring in Chapter V-B of the I.D. Act on the ground that the Legislature having classified the industries into two categories - (i) those employing 100 or less employees, and (ii) those employing more than 100 employees - was not justified in introducing a further class of industries covering a 'factory', 'mine' and 'plantation', as it brings ~~out~~ <sup>about</sup> a discrimination in ~~us~~ the matter of terminal benefits, security against termination of service etc.

9. The learned Advocate General has endeavoured to meet the challenge thus:

Section 25-K of the I.D. Act wherein it occurs, is applicable to all industries in which more than 100 persons are employed, but the expression 'industry' used in Sec. 25-K is given a restrictive meaning under Sec. 25-L, with the result that the operation of the provisions of Chapter V-B of the I.D. Act is confined to factories, mines and plantations.

10. To resolve the rival contentions, we consider it expedient to refer to the statement of objects and reasons ('statement') annexed to the I.D. (Amendment) Bill, 1976, wherein it is stated:

U/A

"xxxxxxxx.

2. xxxxxxxx. In order to prevent avoidable hardship to the employees and to maintain higher tempo of production and productivity, it has become now necessary to put some reasonable restrictions on the employer's right to lay off, retrenchment, and closure. This need has also been felt by different State Governments.

3. This Bill, therefore, seeks to amend the Industrial Disputes Act to make prior approval of the appropriate Government necessary in the case of lay-off, retrenchment and closure in industrial establishments where 300 or more workmen are employed. This is sought to be achieved by inserting a new Chapter VB in the Act. In the interests of rehabilitation of workmen and for maintenance of supplies and services essential to the life of the community, there is a provision in the Bill for restarting the undertakings which were already closed down otherwise than on account of unavoidable circumstances beyond the control of the employer."

It is clear from the statement extracted above that the intention of the Legislature was to make the special provisions incorporated in Chapter V-B of the I.D. Act applicable to industries engaged in production.

*CJ*



11. The touchstone on which the vice of discrimination is to be decided has been enunciated as long ago as in 1952 by the Supreme Court in WEST BENGAL v. ANWAR ALI SARKAR (1952 SCR p.340) as under:

"Permissible classification must satisfy two conditions, namely, (i) it must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group, and (ii) the differentia must have a rational relation to the object sought to be achieved by the statute in question."

11A This principle has been reiterated in several subsequent decisions, which <sup>it</sup> would be paedantic to cite.

12. On a careful consideration of the matter, we are satisfied that there is not only a rational basis but also a nexus to the object sought to be achieved, namely, to ensure greater protection to those employed in industries engaged in production of goods and in the interest of productivity.

13. Shri Subbarao next contends that the services of the applicants were not terminated promptly on the date mentioned therein, but were retained in service beyond that date, with the result that the notices already issued by SR have become non-est in the eye of law, since their services were not terminated on the date mentioned therein, but were retained beyond.

*Ans*

14. The learned Advocate General submits that the notices were not given effect to because the Assistant Labour Commissioner ('ALC') initiated conciliation proceedings at the instance of the applicants and he directed the respondents not to retrench the applicants pending conciliation proceedings; that when it was learnt that the report of the ALC was received in the Ministry of Labour, steps were taken to retrench the applicants, since the respondents were advised that conciliation proceedings are deemed to be at an end as soon as the report by the ALC was received in the Ministry of Labour; that thereafter, the operation of the notices were stayed by the High Court of Karnataka and in view thereof, the retrenchment could not be given effect to. He further submits that since the notices were kept in abeyance because of the order of ALC, who is a statutory authority, and the order of stay passed by the High Court, the notices must be deemed to be valid even after the expiry of the date mentioned therein.

15. We have considered the rival contentions carefully. We are satisfied that in cases where as a result of an order made by a statutory authority or a stay order granted by a competent Court, the notices would remain in a state of suspended animation and revive after the final disposal of the proceedings before the statutory authority or the Court, and as such no ~~as~~ fresh notices in such cases need be issued.

U.S.

16. Shri Subbarao submits that in some of the cases, even without any orders staying the operation of the notices, the applicants have been retained in service beyond the date mentioned therein. The learned Advocate General <sup>W</sup> frankly conceded that if this be factually correct, the notices already issued to such applicants would not avail the respondents, and <sup>issue of</sup> fresh notices in such cases would be required. ~~to be issued~~. He also stated that the cases of such applicants would be separately dealt with under the law.

17. Shri Subbarao next contends that the requirements of Sec. 25-G of the I.D. Act and Rule 77 of the Industrial Disputes (Central) Rules, 1957, which read as follows, have not been complied with by the respondents:

"25.G: Procedure for retrenchment:

Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence, of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

*U.G*

"77. Maintenance of seniority list of workmen: The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment."

18. Shri Subbarao also submits that the notices have not been issued by the competent authority to retrench CLs. The learned Advocate General invites our attention to the following ~~in~~ paragraphs 7, 8, 9 and 10 of the Statement of Objections:



"7. .... At present the competent authority to retrench the labourers is the Executive Engineer and the circular dated 20/22-9-76 has been cancelled. True copies of the order of cancellation is marked as Annexure-II. Hence, there is no substance in the averment in para 7 that the Executive Engineer is not competent to issue this notice of retrenchment. Further, the seniority list was published as required by Rule 77 of the Industrial Disputes Central Rules and there is sufficient compliance of Rules 76 and 77 of Industrial Disputes Rules.

8. It is submitted that the seniority list is in compliance of Rule 78 of Industrial Central Rules and it is submitted that the

A handwritten signature in black ink, appearing to be "C. J. S." followed by a stylized signature.

seniority list in compliance with the rules is maintained in the office of the 4th respondent and hence notice of retrenchment has been issued in accordance with law.

9. As stated earlier, the seniority list as required under law has been prepared and published. xxxxxx.

10. The several averments made in para 10 have absolutely no basis. The Railway Administration have worked out the number of posts required for the maintenance work after the completion of the project and when they found that 450 workmen are surplus and cannot be absorbed in Railways against any of the post, it was proposed and decided to retrench those workmen. There is no scope whatsoever to absorb and retain them in employment in view of the fact that the construction of the Hassan-Mangalore Railway Line is complete and a large labour force is not required. For maintenance of the railway line certain number of the posts has been created and casual labourers putting longer number of years of service and those who have been medically found fit have been retained in service and those who are longer required have been retrenched from service. The reference to the Contract Labour Act is not relevant at this stage."

Shri Subbarao has submitted that the notices have not been issued by the competent authority



19. Relying on the above paragraphs, he submits that there has been enough compliance with the provisions of Sec. 25-G and Rule 77 of the I.D. (Central) Rules.

20. We have considered the matter carefully. From the language of Sec. 25-G, it is clear that the principle 'Last Come First Go' has been embodied therein and to effectuate the same, Rule 77 seems to have been framed under the I.D. (Central) Rules, which makes it obligatory on the employer to prepare a list of all workmen according to their seniority of their service and cause a copy thereof to be ~~published~~ pasted on a notice board in the premises of the industrial establishment, as stated therein.

21. In view of the averments made in the Statement of Objections extracted above, we see no reason to disbelieve that a seniority list, as envisaged by Rule 77, is being maintained in the Office of the 5th respondent, and the same has been published.

22. The last submission of Shri Subbarao/that even assuming that the notices issued are valid, the respondents are precluded from giving effect to the same in view of the ruling of the Supreme Court in Inderpal Yadav & others v. UNION OF INDIA & CTHERS (CWP Nos. 40987/85 in W.P. Nos. 147 and 320 to 369 of 1983) rendered on 18.4.1985, wherein framed by the Ministry of Railways a scheme, for treating the casual labourers employed in Projects as temporary on completion of 360 days of continuous employment, was approved by the Supreme Court by



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modifying the date from 1.1.1984 to 1.1.1981 and consequent rescheduling in absorption from that date onwards.

23. The learned Advocate General submits that this scheme will not be applicable to the applicants since the notices already issued must be deemed to have taken effect from the date on which their services should have been terminated, but for the orders of the ALC and the stay order of the High Court. He further submits that on the date on which the notices were issued, the scheme had not been implemented and was approved recently on 18.4.1985. The scheme is, therefore, not applicable to the applicants.

24. After considering the matter, we find considerable force in the submissions made by the learned Advocate General, and we, therefore, uphold the same.

25. Before concluding, we would like to impress upon the respondents that the cases of the applicants may be considered in terms of the scheme as modified and approved by the Supreme Court, in view of the humane considerations adverted to in the opening paragraph of this Order, within three months from the date of receipt of this order.

26. In the result, the applications are dismissed, subject to the observation made in the penultimate paragraph.

Sd/-

MEMBER(J)

Sd/-

MEMBER(AM)(RS)

B. V. Venkatesh  
DEPUTY REGISTRAR  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE

True Copy

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH BANGALORE

DATED THIS THE 3rd FEBRUARY 1987

Present : Hon'ble Shri Ch. Ramakrishna Rao - Member (J)

Hon'ble Shri L.H.A. Rego - Member (A)

APPLICATION Nos. 975 to 981/86  
983 to 995/86  
1388 & 1389/86  
1886 to 1887/86  
1420 to 1422/86

1. T. Gopala Gowda & 6 others
2. T. Range Gowda & 23 others
3. Padam Bahadur & another
4. Smt. R. Rathnamma & another
5. M. Prabhakaran & 2 others

- Applicants

v (Shri K. Subba Rao, Advocate)

1. The Union of India represented by  
The Secretary to Government of India  
Ministry of Railways, New Delhi
2. The General Manager,  
Southern Railway,  
Park Town, Madras 3
3. The Chief Engineer, Construction  
Southern Railway  
No. 18, Millers Road, Bangalore 560046
4. The Executive Engineer, Construction  
Hassan-Mangalore Railway Project,  
Sakaleshpur, Hassan District

- Respondents

(Shri M. Sreerangaiah, Advocate)

The applicants ~~are~~ in applications at serial numbers 1 & 2 have filed a memo seeking stay of the operation of our order pronounced on 30.1.1987 for a period of 30 days to enable them to file a special leave petition under Article 136 of the Constitution of India in the Supreme Court. Shri K. Subba Rao, learned counsel for the applicants makes similar prayer in respect of applicants at serial numbers 3,4 & 5.

2. Shri M. Sreerangaiah, learned counsel for the respondents, opposes the prayer made by the applicants for stay of operation of our order dated 30.1.1986.

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04/02/83 p 995/86

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3. As the applicants are anxious to move the Supreme Court for grant of special leave to appeal and for stay, we consider it just and equitable to ~~suspend~~ stay the operation of our ~~date~~ order dated 30.1.1987. We, accordingly, stay the operation of our order upto and inclusive of 20.2.1987 or till any order of stay is passed by the Supreme Court, whichever is earlier.

sd — —

Member (J)

sd — —

Member (A) 3.2.987

TRUE copy/

B. V. Venkateshwaran  
DEPUTY CHIEF JUDGE  
AD. JUDGE - JOURNAL  
RECORDED - P  
MADRAS

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

By R PAD

Commercial Complex(BDA),  
Indiranagar,  
Bangalore- 560 038.

F.No.13/1/87-Jud1.

Date: 9-4-87.

Application No. 975 to 981/86(T)  
✓ 983 to 995/86(T)  
1388-89/86(T)  
1886-87/86(T)  
and 1420-22/86(T)

M. Prabhakaran & ors. .... Petitioner  
(Applicant in A.No.1420/86(T) & ors)  
V/s.  
Union of India & ors. .... Respondent.

.....

To

1. The Secretary,  
Min. of Railways, New Delhi.
2. The General Manager,  
Southern Railway,  
Park Town, Madras-3.
3. The Chief Engineer(Construction),  
Southern Railway, No.18,  
Millers Road, Bangalore-46.
4. The Divisional Railway Manager,  
Southern Railway, Mysore Divn., Mysore.
5. The Executive Engineer(Construction),  
Hassan-Mangalore Railway Project,  
Sakalespur, Hassan District.
6. The Executive Engineer(Construction),  
Hassan-Mangalore Railway Project,  
Bangalore Cantonment.

Sub: Sending of Copies of order passed by the Supreme Court.

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A copy of the letter received from the Supreme Court Registry,  
D.No.1115/41/87 IV A dated 13-3-87 with record of proceedings of Supreme  
Court dt. 10-3-87 in Spl. Leave Petition Nos.2991-3017/87 arising out of  
Application Nos.975-981/86, 983-995/86, 1388-89/86, 1886-87/86 and 1420-22/86  
is forwarded herewith for necessary action.

*Selby*  
(B.V.Venkata Reddy)  
Deputy Registrar(J).

✓ Copies to relevant files.

*R. Venkatesh*  
(Deputy Registrar) 914  
Judicial.

All communications should  
be addressed to the Registrar,  
Supreme Court, by designation,  
NOT by name.  
Telegraphic address :—  
"SUPREMECO"

By Registered Mail  
POST

D. No. 1115-4/87/IVA

SUPREME COURT  
INDIA

FROM

Darshan Singh  
Assistant Registrar

To

The Registrar,  
High Court of Karnataka  
at Bangalore

13th March, 1987

Dated New Delhi, the ..... 198

SPL. LEAVE PETITION NOS. 2991-3017 of 1987  
(Arising out of Applns. Nos. 975-981/86, 983-995/86,  
1388-89/86, 1886-87/86 and 1420-22/86)

WITH

CIVIL MISC. PETITION NO. 6453-79 of 1987  
(Appln. for stay by notice of motion)

M. Prabhakaran &amp; Ors.

...Petitioners

Vs.

Union of India &amp; Ors.

....Respondents

Sir,  
I am directed to forward herewith for your information  
and necessary action a certified copy of the Record of  
Proceedings dated 10.3.87 of this Court dated 10.3.87  
in the application above-mentioned.

Yours faithfully,

D. Singh  
ASSISTANT REGISTRAR.

*pick up card*  
D 24/3

*G:*

*WD  
33  
24/3*

Item No. 9

Court No 4

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Certified to be true copy

Assistant Registrar (Judl.)  
.....198.....  
Supreme Court of India

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO<sup>s</sup>. 2991-3017/87

(From the Judgment and Order dated 30.1.87 of the  
~~High Court of Central Administrative Tribunal in Appln. Nos. 975-981/86  
983-995/86, 1388-89, 1886-87 and 1420-1422/86~~)

M. Prabhankaran & Ors.

....Petitioners

-vs-

Union of India & Ors.  
(with appln. for ex-parte stay & exemption) Respondents

Dated: 10.3.87 : This petition was called on for hearing today

C. O. R. A. M. :

HON'BLE MR JUSTICE E. S. VENKATARAMIAH  
HON'BLE MR JUSTICE M. M. DUTT

For the Petitioner : M/s. C. S. Vaidyanathan, Sh. Ravindra Bhat  
and Prabir Choudhary, Advs.

For the Respondent :

UPON: hearing Counsel the Court made  
the following O R D E R

Issue notice returnable within four weeks to consider  
whether this case is covered by the decisions of this Court  
in Inder Pal Yadav Vs. Union of India 1985(2) SCC 648 and

in Dakshin Railway Employees Union Vs. Gen. Manager Southern

Railway & Ors. passed in W.P. No. 332/86 on 23rd Feb., 1986.

Meanwhile if the petitioners are working in any project, they  
may be allowed to work.

Sd/-

(JAGAN NATH SHARMA)  
COURT MASTER

S.O.C.  
V. No.  
Date.

FROM

HIGH COURT OF KARNATAKA  
HIGH COURT BUILDINGS, BANGALORE.1  
DATED..... 28 -3-1987.

THE REGISTRAR, HIGH COURT OF KARNATAKA  
BANGALORE.1

TO

The ~~REXXETING~~ Registrar,  
Central Administrative Tribunal,  
B.D.A. Shopping Complex,  
Indiranagar, Bangalore-38.

SIR

*Pari 3/4/87*  
Sub: SIP No.2991-3017/87 on the file  
of Supreme Court-Appeal Nos.975-  
981/86 etc., on the file of your  
Court- forwardal of letter and  
record of proceedings-reg.

I am to forward herewith letter and  
record of proceedings which were mis-sent to  
this office from the Supreme Court, for  
taking necessary action.

Yours faithfully,

*S. M. 3/4/87*  
V ASSISTANT REGISTRAR.

Communicate— *30/1/87* *28/3/87*  
copy of the order  
of Hon'ble S.C. *concern*  
of respondents. & send up its copy

*R*  
*3/4(D)*

*RGA*  
*S. M. 3/4/87*

All communications should  
be addressed to the Registrar,  
Supreme Court, by designation,  
NOT by name.  
Telegraphic address :—  
"SUPREMECO"

By Registered AIR MAIL POST

D. No. 1115-4/87/IV-A

SUPREME COURT  
INDIA



FROM

Darshan Singh  
Assistant Registrar

To

The Registrar,  
High Court of Karnataka  
at Bangalore

13th March, 1987

Dated New Delhi, the ..... 198

SPL. LEAVE PETITION NOS. 2991-3017 of 1987

(Arising out of Applns. Nos. 975-981/86, 983-995/86,  
1388-89/86, 1886-87/86 and 1420-22/86)

WITH

CIVIL MISC. PETITION NO. 6453-79 of 1987  
(Appln. for stay by notice of motion)

M. Prabhakaran & Ors.

...Petitioners

Vs.

Union of India & Ors.

....Respondents

Sir,

I am directed to forward herewith for your information and necessary action a certified copy of the Record of Proceedings dated 10.3.87 of this Court dated 10.3.87 in the application above-mentioned.

Yours faithfully,

*D.S.*  
ASSISTANT REGISTRAR.

J.C. NO. 18489...

HIGH COURT OF KARNATAKA  
HIGH COURT BUILDINGS, BANGALORE-I  
DATED: 30th JANUARY, 1959.

FROM

The Registrar,  
High Court of Karnataka,  
BANGALORE - 1.

TO:

The Central Administrative  
Tribunal,  
B.O.B. Shopping complex,  
Indiranagar, U.

SIE

Sub: C.A. NO. 96-120/1989 on the file of  
Supreme Court- Application No. 975-981/86 3 etc.  
on the file of this High Court-forwardal  
of Letters and orders -regarding.

I am to forward herewith the Certified copy of the <sup>Original</sup> letter and order dated 16.1.69 & 10.1.69 respectively C.C. of the received from the Supreme Court of India, for information and necessary action in the matter. — on the file of your Court.

Yours faithfully,

III ASSISTANT REGISTRAR

30.1.189

you  
3/3/189



D. No. S. 1115-41/87 iv/A

SUPREME COURT OF INDIA  
NEW DELHI-1

Dated: 14.1.89

From: Darshan Singh

The Assistant Registrar,  
Supreme Court of India,  
New Delhi

To

The Registrar,  
High Court of Karnataka  
at Bangalore

CIVIL APPEAL No. S. 96-122

(High Court Appns. Nos. 975-981/86, 983-995/86, 1388-89/86,  
1886-87/86 & 1420-22/86)

M. Prabhakeran & Ors

....Appellant(s)

Versus

Union of India

....Respondent(s)

Sir,

In pursuance of Order 13, Rule 6, S.C.R. 1966,

I am directed by their Lordships of the Supreme Court  
to transmit herewith a Certified copy of the ~~judgment~~/  
Order dated the 12th January, 1989 in the Appeals  
above-mentioned. The Certified copy of the Decree  
made in the said appeal will be sent later on.

Please acknowledge receipt.

Yours faithfully,

ASSISTANT REGISTRAR

58  
Put up  
23/1/89

1216

ns/17.2/88/ivA\*

162495

Decided to the true copy  
Dashed  
Assistant Registrar (Judl.)  
...../.....198  
Supreme Court of India

IN THE SUPREME COURT OF INDIA  
(CIVIL APPELLATE JURISDICTION)

REVIEW

CIVIL APPEAL NO. 96 - 122

OF 1989

• SPECIAL LEAVE PETITION NOS. 2991-3017 OF 1987

M. Prabhakaran & Ors.

... Appellants

Versus

Union of India

... Respondent

ORDER

S.L.P. granted. We have heard the appeals. We find that these appeals are governed by the ruling of this Court in Inderpal Yadav vs. Union of India, 1985 (2) S.C.C. 648. We, therefore, direct that the directions issued in the said case by this Court shall be made applicable to the appellants in these appeals also. These appeals are accordingly disposed of. No costs.

Sd/-  
.....J.  
(E.S. Venkateswami)

New Delhi.  
12.1.1989.

Sd/-  
.....E.  
(N.D. Ojha)



HIGH COURT OF KARNATAKA  
HIGH COURT BUILDINGS  
BANGALORE-1

FROM

THE REGISTRAR,  
HIGH COURT OF KARNATAKA  
BANGALORE-1

TO : The Registrar,  
Central Administrative Tribunal,  
SIR Indiranagar, Bangalore.

DATED 17 April 89

12/4/89

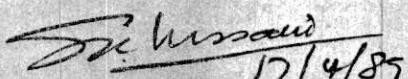
R  
27/4/89  
S

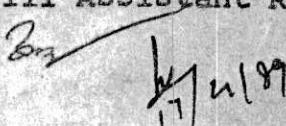
Sub: CA No.96 to 122/89 on the file of  
Supreme Court-Application No.975  
to 981/86 etc., on the file of  
your Tribunal.

---

I am to forward herewith letter No.D.  
1115/87/Sec IV A dated 27.3.89 along with its  
enclosure (certified copy of the decree dated  
12.1.89) received from the Supreme Court as the  
same is misent to this office.

Yours faithfully,

  
17/4/89  
III Assistant Registrar.

  
17/4/89

14/4/89  
11/4/89  
24/4/89

All communications should  
be addressed to the Registrar,  
Supreme Court, by designation,  
NOT by name.  
Telegraphic address:-  
"SUPREMECO"

D.No. 1115-41/87/Sec IV A

# SUPREME COURT INDIA



**FROM** The Registrar (Judicial),  
Supreme Court of India,  
New Delhi.

**To** The Registrar,  
High Court of Karnataka,  
Bangalore.

Dated New Delhi, the 27<sup>th</sup> March, 1989

CIVIL APPEAL NOS. 96 TO 122 OF 1989.

M. Prabhakaran & Ors.

...Appellants

Versus

The Union of India & Ors.

...Respondents

Sir,

In continuation of this Court's letter of even number dated the 14th January, 1989, I am directed to transmit herewith for necessary action a certified copy of the decree dated the 12th January, 1989, of the Supreme Court in the said appeal.

Please acknowledge receipt.

Yours faithfully,

For Registrar (Judicial).

12/8  
Part up ready  
4/4/89

12/8  
Returned  
P.M. 2/4/89

No. 1112-1113.

Submitted  
SUPREME COURT  
This 11th day

pertaining to Central  
Administrative Tribunal

It is proposed  
letter along with enclosure  
may be transmitted  
to Central Adminis-  
trative Tribunal

Done this 15th day of April  
1989  
At  
15th April 1989

## IN THE SUPREME COURT OF INDIA

CIVIL/CRIMINAL/APPELLATE JURISDICTION

Certified to be a true co.  
 Dantu M  
 Assistant Registrar (Ju<sup>d</sup>)  
 ..... 2.3.86  
 Supreme Court of Ind

## CIVIL APPEAL NO. 96 TO 122 OF 1989.

(Appeals by Special Leave granted by this Court by its order dated the 12th January, 1989, in Petitions for Special Leave to appeal (Civil) Nos. 2991 to 3017 of 1987 from the Orders dated the 30th January, 1987, of the Central Administrative Tribunal, Bangalore Bench, Bangalore in Applications Nos. 973 to 981, 983 to 995, 1388, 1389, 1395, 1397 and 1420 to 1422 of 1986).

R. Prabhakaran &amp; Ors.

...Appellants

Versus

The Union of India &amp; Ors.

...Respondents

(For full Cause-Title please see Schedule 'A' attached herewith).

12th January, 1989.

## CORAM:

HON'BLE MR. JUSTICE E.S. VENKATARAMIAH  
 HON'BLE MR. JUSTICE N.D. OJHA

For the Appellants: Mr. Prabir Choudhary, Advocate.

For Respondent  
 Nos 243

Mr. B. Dutta, Additional Solicitor General of India.  
 (Mrs. Indira Savhney, Mrs. Sushma Suri and Mr. C.V. Subba Rao, Advocates with him).

The Appeals above-mentioned being called on for hearing before this Court on the 12th day of January, 1989, UPON perusing the record and hearing counsel for the appearing parties above-mentioned, THIS COURT in view of its decision in Inderpal Yadav Vs. Union of India 1985 (2) S.C.C. 648 DOETH in disposing of the appeals ORDER:

1. THAT the directions issued in the case mentioned above

(copy of the Judgment annexed herewith as Schedule 'B') shall be applicable to the appellants herein;

2. THAT there shall be no order as to costs of the said appeal in this Court;
3. THAT the order of this Court dated the 10th March, 1987, passed in the Civil Miscellaneous Petitions Nos. 6453 to 6479 of 1987 in the said appeals be and is hereby vacated subject to the order contained hereinabove;

AND THIS COURT DOETH FURTHER ORDER that this ORDER be punctually observed and carried into execution by all concerned.

WITNESS the Hon'ble Shri Raghunandan Swarup Pathak, Chief Justice of India at the Supreme Court, New Delhi, dated this the 12th day of January, 1989.

(V.P. SINGHAL)  
JOINT REGISTRAR

Received  
without  
signature of  
Joint Registrar  
Supreme Court

On  
24/4/89

Schedule A'

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

30

SPECIAL LEAVE PETITION (CIVIL) NO. 2991-3017  
OF 1987

In the matter of:

1. M. Prabhakaran  
Store Mate, Office of the Chief Clerk  
Mangalore-Hassan Railway  
Mangalore. 1388-89/86
2. Padam Bahadur, ELR Driver,  
Mangalore- Hassan Railway,  
Office of the Executive Engineer  
Construction Southern Railway,  
Sakaleshpur and residing at  
Sakaleshpur, Hassan District 1886-87/86
3. Smt. S. Rathamma  
Woman Mazdoor, L.T.I.  
No. 369, Office of the Chief Clerk,  
Mangalore- Hassan Railway,  
Mangalore. 1420-22/86
4. T. Gopal Gowda  
Illahalli, P.O. Sante  
Mangalore. Taluk Arkalagud  
Dist: Hassan (A. No. 975/86)
5. B. Thammanna Gowda  
Malalikere Village  
P.O. Mokali  
Taluk: Arakalagud  
Dist: Hassan (A. No. 976/86)
6. R. Mahadevappa  
Yediyur Doddabemitti  
Taluk: Arakalagud  
District: Hassan (A. No. 977/86)
7. A. Saake Gowda  
Yediyur Doddabemitti  
Taluk: Arakalagud  
Dist: Hassan (A. No. 978/86)

contd../-

8. Thammanna Gouda  
Dummi Village  
Sante Maroor P.O.  
Taluk: Arakalagud  
Dist: Hassan (A.No. 979/86)

9. K. Govinda Gowda  
Kyatanahallikoppalu  
P.O. Kattimallinahalli  
Taluk: Arakalagud  
Dist: Hassan (A.No. 980/86)

10. D, Swamy Gowda (A No. 981/86)  
Malalikera Village  
P.O. Mokali  
Taluk: Arakalagud  
District: Hassan

11. T. Range Gowda  
Hassan Mangalore Railway (A No. 983/86)  
Kandli P.O.  
Hassan Taluk & Distt

12. Anne Gowda  
Madabalu village & P.O. (A.No. 984/86)  
Allur Taluk  
Hallan District

13. S. Rame Gowda  
Madabalu village & P.O. (A No. 985/86)  
Alur Taluk, Hassan District

14. Dodde Shetty  
Rajanahalli  
P.O. Doddakanagal  
Alur Taluk  
Hassan District. (A. No. 986/86)

15. Venkatesh  
Agasarahetti P.O. (A. No. 987/86)  
Hunasahalli Taluk Alur  
Distt: Hassan

16. M. Thimme Gowda  
Agasarahalli  
P.G. Hunasahalli  
Taluk: Alur  
Distt: Hassan (A. No. 988/86)

32

17. Smt. Manjamma (A. No. 989/86)  
Agasarahalli  
P.O. Hunasehalli  
Taluk: Alur  
Hassan Dist

18. K. Thimmaiah (A. No. 990/86)  
Yadur  
P.O. Hunasehalli Taluk  
Alur, District: Hassan

19. Somachari (A. No. 991/86)  
Barthavalli, Hunasahalli P.O.  
Alur Taluk, Hassan Dist.

20. Manjaiah (A. No. 992/86)  
Hale Alur P.O.  
& Taluk: Alur  
Distt: Hassan

21. Bettaiah (A. No. 993/86)  
Chikkekenderkula  
P.O. Desarakaplu  
Taluk & Distt: Hassan

22. Puttaswamy Gowda (A. No. 994/86)  
Echalalahalli  
P.O. Kandali  
Taluk & Distt: Hassan

23. Inwar (A. No. 995)  
Village & P.O. : Kadali  
Taluk & Distt: Hassan

PETITIONERS

Versus

1. The Union of India represented by  
The Secretary to Government of India,  
Ministry of Railways, New Delhi

2. The General Manager,  
Southern Railway,  
Park Town, Madras-3.

3. The Chief Engineer, Construction  
Southern Railway,  
No. 18, Millers Road, Bangalore-46
4. The Divisional Railway Manager,  
Southern Railway,  
Mysore Division, Mysore,
5. The Executive Engineer, Construction,  
Hassan Mangalore Railway Project,  
Sakaleshpur, Hassan District.

.... RESPONDENTS

PETITION UNDER ARTICLE 136 OF THE  
CONSTITUTION OF INDIA.

To

The Hon'ble Chief Justice of India  
and his Companion Justices of the  
Supreme Court of India.

The humble petition of the  
Petitioners above -named.

MOST RESPECTFULLY SHOWETH;

1. The present petition Under Article 136 of the Constitution is against two common orders dated 30.1.87 passed by the Bangalore Bench of the Central Administrative Tribunal in Application Nos 975-981/86; 383-995/86 and 1388-1389; 1886-87 and 1420-1422/86, respectively. Since common issues of fact and law are involved,

Contd..

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION

WRIT PETITIONS NOS. 147, 320-69, 454,  
4335-4434/83 etc. etc.

Inder Pal Yadav & Ors. etc. ... Petitioners  
vs.  
Union of India & Ors. etc. ... Respondents

JUDGMENT

Desai, J.

Articles 41 and 42 of the Constitution notwithstanding, there are certain grey areas where the rule of hire and fire, a legacy of laissez-faire, even in Government employment still rules the roost. Casual labour employed on projects also known as 'project casual labour' is one such segment of employment where one may serve for years and remain a daily rated worker without a weekly off, without any security of service, without the protection of equal pay for equal work.

In short at the sweet will and mercy of the local satraps. Even the formidable railwaymen's unions least cared for these helpless and hapless workmen. Suddenly a torrent of writ petitions and petitions for special leave awakened this Court to the plight of these workmen. In quick succession, 48 writ petitions and 32 petitions for special leave flooded this Court. In each writ petition/S.L.P., the grievance was that even though the workmen styled as 'project casual/labour' had put in continuous service for years on end to wit ranging from 1974 till 1983, yet their services were terminated with impunity under the specious plea that the project on which they were employed has been wound up on its completion and their services were no more needed. No one is unaware of the fact that Railway Ministry has a perspective plan spreading over years to decades and projects are waiting in queue for execution and yet these workmen were shunted out (to use a cliche from the railway vocabulary) without any chance of being re-employed. Some of them rushed to the court and obtained interim relief. Some were not so fortunate. At one stage some of these petitions were set down for final hearing and the judgment was reserved. When some other similar matters came up, Mr. E.G.Bhagat, the then learned Additional Solicitor General, requested the court not to render the judgment because he would

take up the matter with the Railway Ministry to find a just and humane solution affecting the livelihood of these unfortunate workmen. As the future of lakhs of workmen going under the label of casual project labour was likely to be affected, we repeatedly adjourned these matters to enable the Railway Ministry to work out a scientific scheme.

Railway Ministry framed a Scheme and circulated the same amongst others to all the General Managers of Indian Railways including production units as per its circular No. E(NG)II/84/CL/41 dated June 1, 1984. <sup>In the Scheme</sup> It was stated that all the General Managers were directed to implement the decision of the Railway Ministry by the target dates. It was further stated that a detailed letter regarding group 5.1(ii) would follow. Such a letter was issued on June 25, 1984. Thereafter, these matters were set out for examining the fairness and justness of the Scheme and whether the court would be in a position to dispose of these petitions in view of the Scheme. That is how these matters came up before us.

The relevant portions of the Scheme read as under:

"5.1. As a result of such deliberations, the Ministry of Railways have now decided in principle that casual labour employed on projects (also known as 'project casual labour') may be treated as temporary on

on completion of 360 days of continuous employment. The Ministry have decided further as under:

(a) These orders will cover:

- (i) Casual labour on projects who are in service as on 1.1.84; and
- (ii) Casual labour on projects who, though not in service on 1.1.84, had been in service on Railways earlier and had already completed the above prescribed period (360 days) of continuous employment or will complete the said prescribed period of continuous employment on re-engagement in future. (A detailed letter regarding this group follows).

(b) The decision should be implemented in phases according to the schedule given below:

Length of service (i.e. continuous employment).	Date from which may be treated as temporary	Date by which deci- sion shoul be impleme
i) Those who have comple- ted five years of service as on 1.1.84	1.1.1984	31.12.1984
ii) Those who have comple- ted three years but less than five years of service as on 1.1.1984	1.1.1985	31.12.1985
iii) Those who have completed 360 days but less than three years of service on 1.1.1984	1.1.1986	31.12.1986
iv) Those who complete 360 days after 1.1.1984	1.1.1987 or the date on which 360 days are completed which- ever is later.	31.3.1987

5.2. The Ministry would like to clarify here that casual labour on projects who have completed 180 days of continuous employment would continue to be entitled to the benefits now admissible to them (so long as they fulfil the conditions in this regard) till they become due for the benefits mentioned in the preceding sub-paragraph.

By and large the scheme certainly is an improvement on the present situation though not wholly satisfactory. However, the Railway being the biggest employer and having regard to the nature of ~~this~~ work, it would have to engage casual labour and therefore, as a preliminary step towards realisation of the ideal enshrined in Articles 41 and 42, we propose to put our stamp of approval on the scheme with one major variation which we proceed to herein set out.

The Scheme envisages that it would be applicable to casual labour on projects who were in service as on January 1, 1984. The choice of this date does not commend to us, for it is likely to introduce an invidious distinction between similarly situated persons and expose some workmen to arbitrary discrimination flowing from ~~this~~ fortuitous court's order. To illustrate, in some matters, the court granted interim stay before the workmen could be retrenched while some other were not so fortunate. Those in respect of whom the court granted interim relief by stay/suspension of the order of retrenchment, they would be treated in service on 1.1.1984 while others who fail to obtain interim relief though similarly situated would be pushed down in the implementation of the Scheme. There is another area where discrimination is likely to rear its ugly head. These workmen come from the lowest grade of railway service. They can ill afford to rush to

court. Their Federations have hardly been of any assistance. They had individually to collect money and rush to court which in case of some may be beyond their reach. Therefore, some of the retrenched workmen failed to knock at the doors of the court of justice because these doors do not open unless huge expenses are incurred. Choice in such a situation, even without crystal gazing is between incurring expenses for a litigation with uncertain outcome and hunger from day to day. It is a Hobson's choice. Therefore, those who could not come to the court need not be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment, if not by anyone else at the hands of this Court. Burdened by all these relevant considerations and keeping in view all the aspects of the matter, we would modify part 5.1 (a)(i) by modifying the date from 1.1.1984 to 1.1.1981. With this modification and consequent rescheduling in absorption from that date onward, the Scheme framed by Railway Ministry is accepted and a direction is given that it must be implemented by re-casting the stages consistent with the change in the date as herein directed.

To avoid violation of Art. 14, the scientific and equitable way of implementing the scheme is for the Railway administration to prepare, a list of project casual labour with reference to each division of each

railway and then start absorbing those with the longest service. If in the process any adjustments are necessary, the same must be done. In giving this direction, we are considerably influenced by the statutory recognition of a principle well known in industrial jurisprudence that the men with longest service shall have priority over those who have joined later on. In other words, the principle of last come first go or to reverse it first come last go as enunciated in Sec. 25G of the Industrial Disputes Act, 1947, has been accepted. We direct accordingly.

All these writ petitions and special leave petitions shall stand disposed of consistent with the scheme as modified by this judgment and the directions herein given.

The scheme as would stand modified by the directions herein given forms part of this judgment and a copy of it shall be annexed to this judgment.

Learned counsel Shri Anis Suhrawardy has put in the maximum labour in making a very useful compilation. He must have spent days and months. The compilation helped us the most in dealing with the writ petitions and the special leave petitions and in ascertaining the proper principle. Such a compilation ought to have been prepared by the Railway administration.

- 8 -

Therefore, we direct the Union of India to pay  
Rs 5,000/- as and by way of costs to Shri Anis  
Suhrawardy, Advocate, Supreme Court.

sd/- J.  
(D.A. Desai)

sd/- J.  
(Ranganath Misra)

NEW DELHI,  
April 18, 1985.

SUPREME COURT  
CIVIL/CRIMINAL/APPELLATE JURISDICTION

CIVIL APPEAL NO. 96 TO 122 OF 1989.

M. Prabhakaran & Ors.

Appellant  
Petitioner

*Versus*

The Union of India & Ors. Respondent

CENTRAL ADMINISTRATIVE TRIBUNAL,  
BANGALORE BENCH, BANGALORE.

Application Nos. 973 to 981, 983 to  
995, 1385, 1389, 1886, 1887, and 1420  
to 1422 of 1986.

DECREE DISPOSING OF THE  
APPEALS WITH NO ORDER AS  
TO COSTS.

Dated the 12th day of January, 1989.

Engrossed by  
Examined by  
Compared with  
No. of folios

SHRI Prabir Choudhary,  
Advocate-on-Record for the Appellants

SHRI C.V. Subba Rao,  
Advocate-on-Record for Respondents  
nos. 2 & 3.

SHRI  
Advocate-on-Record for

SEALED IN MY PRESENCE  
18/1/89