

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. 1388 & 1389 of 1986

1886 & 1887 of 1986

1420 to 1422 of 1986

1. Padam Bahadur & ~~exam~~
ELR Driver, Mangalore-Hassan Railway
Office of the Executive Engineer/Construction
Southern Railway, Sakaleshpur and residing
at Sakaleshpur, Hassan District
& another

2. Smt. R. Rathamma
Woman Mazdoor, L.T.I.
No. 369, Office of the Chief Clerk,
Mangalore-Hassan Railway,
Mangalore
& another

3. M. Prabhakaran
Store Mate, Office of the Chief Clerk
Mangalore-Hassan Railway
Mangalore
& two others

- Applicants

(Shri K. Subba Rao, Advocate)

v

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

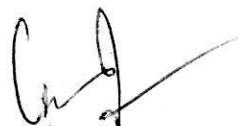
3. The Chief Engineer, Construction
Southern Railway
No. 18, Millers Road, Bangalore 560046

4. The Divisional Railway Manager
Southern Railway
Mysore Division, Mysore

5. The Executive Engineer, Construction,
Hassan- Mangalore Railway Project,
Sakaleshpur, Hassan District

- Respondents

(Shri M. Sreerangaiah, Advocate)



...

These applications came up for hearing before this Tribunal and Hon'ble Shri Ch. Ramakrishna Rao, Member, to-day made the following ~~xxx~~

O R D E R

Shri K. Subba Rao, learned counsel for the applicants and Shri M. Sreerangaiah, learned counsel for the respondents, submit that the facts in these ~~xxx~~ applications are similar to the facts in application Numbers 975 to 981 of 1986 and 983 to 995 of 1986 in which we have pronounced the order just now. In view of this statement made at the Bar, we consider it unnecessary to pass a fresh order and we make the decision pronounced in A.Nos. 975 to 981 of 1986 and 983 to 995 of 1986 applicable to these applications also.

2. In the result, these applications are dismissed, with no order as to costs, subject to the observations made in the penultimate paragraph of the order pronounced in the connected applications which we reproduce below :

"Before concluding, we would like to impress upon the respondents that the case 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."

Ch. Ramakrishna Rao,
Member (J)

Ch. Ramakrishna Rao,
Member (AM) 20.1.1987

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indira Nagar
Bangalore - 560 038

Dated : 5/2/87

Application No. 975 to 981/86 & 983 to 995/86,
1388 & 89/86, 1886 to 87, 1420 to 22/86(I)
W.P. No. _____

Applicant

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

vs

C/o. Shri K. Subba Rao,
Advocate for Applicants,
128, Cubbonpet Main Road,
Bangalore - 560 002.

Shri M. Srrerangaiah, C.G.S.C.,
High Courtof Karnataka Build ngs
Bangalore-560001.

Respondents

1. The Secretary to Govt.of Indi
M/o. Railways, N.Delhi.
2. The General Manager,
Southern Railway, Pa-rk Town
Madras-600 003.
3. The Chief Engineer,
(Construction) Southern Rly,
18 Millers Road,
Bangalore-560 046.
4. The Executive Engineer,
Construction Hassan-Mangalo
Railway Project, Sakaleshpur
Hassan District

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH IN

APPLICATION NO. 975 to 981/86, 983 to 995/86, 1388 & 89,
1886 to 1887/86, 1420 to 1422/86.

Please find enclosed herewith the copy of the Order/~~Index~~ Index
passed by this Tribunal in the above said Application on 3-02-1987.

Encl : As above

Copy of P.M. 388 & 89/86

B. V. Deve
DY. REGISTRAR
REGISTRAR'S DESK
(JUDICIAL)

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.



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) 20.2.1987

TRUE COPY

B. U. Venkatesh Rao
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

By R.P.A.D

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

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

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.

.....

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.



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

Copies to relevant files.


(Deputy Registrar)
Judicial. 9/4

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

By Registered 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 & 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,

ASSISTANT REGISTRAR.

Print up card
D-24/3

6/

160975

Certified to be true copy

Item No. 9

Court No 4

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

D. L. M.
Assistant Registrar (Judl.)
.....198.....
Supreme Court of India

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO^{S.} 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 Petitioners : M/s. C. S. Vaidyanathan, S. 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

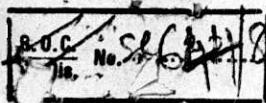
in Dakshin Railway Employees Union Vs. Gen. Manager Southern

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



HIGH COURT OF KARNATAKA
HIGH COURT BUILDINGS, BANGALORE-1

28-3-1987.

FROM

THE REGISTRAR, HIGH COURT OF KARNATAKA
BANGALORE-1

TO

SIR

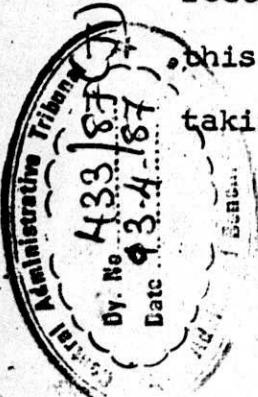
The ~~Ex-Executive~~ Registrar,
Central Administrative Tribunal,
B.D.A. Shopping Complex,
Indiranagar, Bangalore-38.

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.

Pariv. 3/4/87
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. M.
V ASSISTANT REGISTRAR.



Communicate—
copy of the order
of Supreme SC (re) to
its dependents. & sending its copy

R 3/4/87

Re 3/4/87
S. M. M.

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,

ASSISTANT REGISTRAR.

Put up card
D 24/3

WD
323
24/3



Registered ~~100~~

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 Apps. 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

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ns/17.2/88/ivA*

162495

Guaranteed to be true copy

IN THE SUPREME COURT OF INDIA
(CIVIL APPELLATE JURISDICTION)

~~REVIEW~~
CIVIL APPEAL NO. 96 - 122

OF 1989

Dashrath
Assistant Registrar (Judl.)
..... 16 198
Supreme Court of India

• SPECIAL LEAVE PETITION NO. 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. Venkateswam)

New Delhi.
12.1.1989.

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

160
12 No. 522/89
Dis.

34/POB
DRG
75 need not

4 copies

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 17th April 89

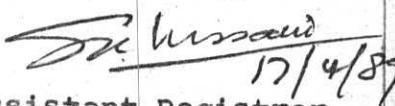
Re 21/4/89

PAK
Smt

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.

By
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 20th 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).

128
Returned
Adm. grbnd.

21-3-048

SLIPPERY COTTON

~~This paper~~

pertains to Central
Administrative Tribunal

It is proposed
letter along with enclosure
may be transmitted
to Central News
Tribune.

1574189

~~Act 514187~~

189

Sept 8th

IN THE SUPREME COURT OF INDIA

CIVIL/CRIMINAL/APPELLATE JURISDICTION

Certified to be a true copy

Dantu M

Assistant Registrar (Jn^o)

..... 27.3.89.1

Supreme Court of India

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. 975 to 981, 983 to 995, 1388, 1389, 1886, 1887 and 1420 to 1422 of 1986).

M. Prabhakaran & Ors.

...Appellants

Versus

The Union of India & 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 2 & 3

Mr. B. Dutta, Additional Solicitor
General of India.
(Mrs. Indira Sawhney, 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. 643 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

Sir
Received
without
signature of
Joint Registrar
Supreme Court.

Mr
24/4/89

u/1
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.	1388-87/86
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. 309, Office of the Chief Clerk, Mangalore- Hassan Railway, Mangalore.	1420-22/86
4.	T. Gopal Gowda Illahalli, P.O. Sante Mangalur. 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
Kyatanahalli koppalu
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)
Kndli 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. Hunasahalli
Taluk: Alur
Hassan Dist

18. K. Thimmaiah (A. No. 990/86)
Yadur
P.O. Hunasahalli 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)
Eechalahalli
P.O. Kandali
Taluk & Distt: Hassan

23. Anwar (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,
4335-4424/83 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.

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 <u>temporary</u>	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 its 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 the 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 those 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.

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/-
(D.A. Desai)

J.

sd/-
(Ranganath Misra)

J.

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. 975 to 981, 983 to
995, 1385, 1389, 1396, 1397, and 1420
to 1422 of 1985.

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