

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

O.A. No. 238, 341 & 294 TO 455/94

THURSDAY THIS THE THIRTIETH DAY OF JUNE 1994

Shri A.N. Vujjanaradhya ... Member [J]

Shri T.V. Ramanan ... Member [A]

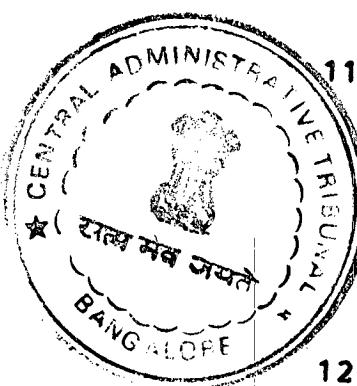
1. Shivappa, M.H.
S/o Mahadevappa,
Aged about 27 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/a Parvathi Nilayam,
Srinivasapur,
C.V.Ramannagar PO,
Bangalore-93.
2. N. Puttaraju,
S/o Narasimhaiah,
Aged about 34 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/a No.42/1, Ist Cross,
Chikka Lakshmaiah Layout,
Dharamaram College P.O.
Hosur Road, Bangalore-29.
3. Sri K. Suresh,
S/o A. Kannan,
Aged about 32 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.46, III Main,
Lingaiahnapalya, Ulsoor,
Bangalore-8.
4. Sri M. Robin Suresh Rajendra,
S/o Aged about 35 years,
Working as Casual Employee,
Passport Office, Bangalore,
R/at No.112/B, H. Colony,
Indiranagar 1st Stage,
Bangalore-38.
5. K. Subramani,
S/o Kuttai,
Aged about 36 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.2, III Cross,
Sonnan hally, Vivekanagar PO,
Bangalore-47.
6. R. Jothi d/o late Ramdas,
Aged about 30 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at 1st Main Road, Gouthampuram,
Bangalore.



... Applicants

7. A.N. Ramesh,
S/o A.N. Nanjundaiah,
Aged about 29 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.424 Jakkur PO,
Jakkur New Extension,
Bangalore North Taluk,
Bangalore-560 064.
8. Udayakumar,
S/o C.P. Kandaswamy,
Aged about 25 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.2/2, Velumudaliar Road,
Bangalore.
9. Smt. B.N. Radha Bai,
D/o B.V. Narayana Rao,
Aged about 25 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.611, 8th Main, 10th Cross,
Kumaraswamy Layout,
Bangalore.
10. P.G. Mahesh Babu,
S/o P.S. Govindaraj Shetty,
Aged about 26 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.3, Velumudaliar Road,
Bangalore.
11. Smt. Savithri Srinivasan,
d/o K.A. Subramanian,
Aged about 31 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.32, V Main,
Jayamahal Extension
Bangalore.
12. S.D. Arulnathan,
S/o B.S. Devadas,
Aged about 32 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at no.200/A, David Villa,
New Thippasandra,
Bangalore.

... Applicants



13. B.R. Venkatarama,
S/o Ranganna,
Aged about 31 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at Binnamangala,
Arisinakunte PO,
Nelamangala Taluk,
Bangalore.

14. Smt. Premalatha S. Bhat,
W/o Suresh Bhat,
Aged about 28 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.183, 14/15 th Main, IInd Cross,
BSK I Stage, Hanumanthanagar,
Bangalore.

15. Shafiq Ur Rahman,
S/o L. Abdul Hameed,
Aged about 27 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.18, C No.1 Street,
Noah Street Cross,
Shivajinagar,
Bangalore.

16. R. Kumar S/o N. Ramanathan,
Aged about 30 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.16 [Old No.4],
G.No.13 Street,
Jogupalyam, Ulsoor,
Bangalore.

17. K. Kempanna
S/o Chikka Kariyappa,
Aged about 23 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.79, Chennarayappa Bldg.,
11th Cross, A.K.Colony, Mathikere,
Bangalore.

18. M. Shaheena Banu,
D/o Mohammed Obeidulla,
Aged about 26 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.124 B, II Main Road,
Bapujinagar, Mysore Road,
Bangalore.

... Applicants



19. S. Bhaskaran,
S/o R. Subramaniam,
Aged about 29 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.188, Old Bypanahalli,
7th Cross, S.R.S. Nilayam,
Bangalore-560 038.
20. Smt. A. Savithra Bai,
D/o C. Aganoji Road,
Aged about 33 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.3371/A, V Cross,
I Main Road, Gayathrinagar,
Bangalore.
21. Smt. Hamsaveni,
D/o late P. Madurai,
Aged about 26 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.10/4, Madurai Bldg.,
III Cross, ITC Main Road,
Cox Town, Jeevanahalli,
Bangalore.
22. K.R. Babu,
father's name not given,
aged about 24 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.1, 'E' No.II Street,
Shivajiroad Cross,
Shivajinagar,
Bangalore.
23. Smt. Noor Fathima,
D/o D. Abdul Kareem,
Aged about 27 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.656, III Block,
46th Cross, Rajajinagar,
Bangalore.
24. Smt. T.N. Uma,
D/o T.R. Narayanan,
Aged about 28 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.1st Floor,
Narayana Reddy Building,
Behind Canara Bank, Marathahalli,
Bangalore.

... Applicants

M

25. Smt. B. Thresa Asha,
D/o late M.Bernard,
Aged about 25 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.160, Shivaji Road Cross,
Shivajinagar,
Bangalore.
26. Smt. C. Sarala,
D/o B.K. Channarasappa,
Aged about 22 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.513, 10th Cross,
6th Block, Rajajinagar,
Bangalore.
27. Smt. T. Pramila,
D/o P. Thammaiyanna,
Aged about 26 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at no.24, 8th Cross,
Jakkasandra Main Road,
Mariyamma Temple Street,
Malleswaram,
Bangalore.
28. Smt. Yashoda,
D/o B. Lakshmana,
Aged about 25 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.113/2, Munnekolala
Varthur Road, Marathalli PO,
Bangalore.
29. Smt. Ragina Anitha,
D/o Arumai Nathan,
Aged about 30 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.113/2, Munnekolala Varthur
Road, Marathalli PO.,
Bangalore.
30. Sri K. Rururaja,
S/o Krishna Rao Katti,
Aged about 27 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.307, 9th Main, II Stage,
Rajajinagar, Malleswaram West,
Bangalore.
31. Smt. Latha,
D/o K.V. Sundareswaran Nair,
Aged about 20 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.H/No.85, K.S. Town,
Bangalore.

... Applicants



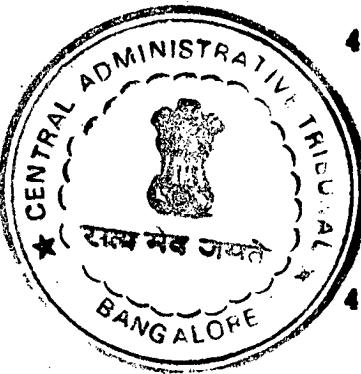
32. Smt. B.L. Shashikala,
D/o A.B. Loganathan,
Aged about 21 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at no.3/1, Sangam Road,
Bangalore.
33. Smt. D. Vijaya lakshmi,
D/o R. Devaraj,
Aged about 24 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.1, Vellariamman Temple Street,
Vivekanagar PO,
Bangalore.
34. Smt. L. Renuka,
D/o M. Lakshminarayanaappa,
Aged about 22 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.69, 2nd West Cross,
L.N. Colony, Yeshwanthpur,
Bangalore.
35. Smt. B. Kavitha,
D/o Balakrishnan,
Aged about 22 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at o.G 79, Ramanagari,
HAL PO
Bangalore.
36. Smt. Surya Jabeen,
D/o Maqsood Ali Khan,
Aged about 36 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.42[old] 85, Nandidurg
Road, Benson Town,
Bangalore.
37. Smt. Sujatha,
D/o Velayudhan,
Aged about 22 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.124, 4th Cross,
Saraswathipuram, Ulsoor,
Bangalore.
38. Smt. Rajani d/o M.R. Puttanna,
Aged about 27 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.38, New No.86, Anthony
Nicholas Street, Ashoknagar,
Bangalore.

...Applicants



39. Smt. A. Mary d/o late M. Antony dass, aged about 27 years, Working as Casual Employee, Passport Office, Bangalore, r/at No.20, 6th G Cross, Jokpalya, Ulsoor, Bangalore.
40. Charles Antony Samuel, S/o B.S. Samuel, Aged about 25 years, Working as Casual Employee, Passport Office, Bangalore, r/at No.J. No.3rd Street, No.18, Ashokanagar, Bangalore.
41. Sri R. Ravindran, S/o Ramaiah, K. Aged about 22 years, Working as Casual Employee, Passport Office, Bangalore, r/at No.17/4, Chinnappa Colony, Doorvaninagar, Vijayanapura, Bangalore.
42. Smt. Bindu, d/o Venugopal, Aged about 24 years, Working as Casual Employee, Passport Office, Bangalore, r/at Lakshmiamma Bldgs.,‡ Motappapalyam, Indiranagar, Bangalore.
43. Smt. B.S. Prabha, D/o Sathyanarayana Rao, Aged about 20 years, Working as Casual Employee, Passport Office, Bangalore, r/at No.9 B No.6th Street, Milkman Street, Ulsoor, Bangalore.
44. Smt. S. Shanthi, D/o Swaminathan, Aged about 24 years, Working as Casual Employee, Passport Office, Bangalore, r/at No.10 A Type, Kattally BDA Quarters, Shivan Shetty Gardens, Bangalore.
45. Smt. R. Jayasree, D/o Ramaswamy, Aged about 22 years, Working as Casual Employee, Passport Office, Bangalore, r/at No.11/1, 4th Cross, Sudhamanagar, Bangalore.

..Applicants



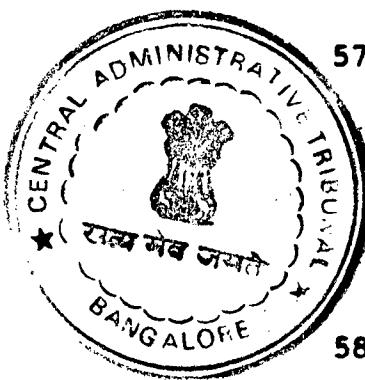
46. C. Dheganeshwaran,
S/o Chinnaraj,
Aged about 30 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.216, 3rd Cross,
Kanakadasa Layout,
Lingarajapuram,
Bangalore.
47. G. Sellembu Selvam,
S/o N. Gajendran,
Aged about 24 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.35, Opp: Rcbak Ind.,
Old Madras Road,
Thambuchettypalya,
Virgonagar, Bangalore.
48. Smt. Wajeeha Banu,
D/o M.B. Azmathulla,
Aged about 27 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at no.233/4, Kadirappa Road,
9th Cross, Doddigunda Cox Town,
Bangalore.
49. Smt. R. Niveditha,
D/o Ramachandraiah,
Aged about 23 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.67, I 'C' Main,
Near Pipeline Road,
Binny Layout, Vijayanagar,
Bangalore.
50. Smt. Hema M. Nath,
D/o K.S. Manjunath,
Aged about 23 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.46/2, 7th Main Road,
Sreeramapuram,
Bangalore.
51. Narasimha Gowda,
S/o Govinda Gowda,
Aged about 24 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at Kumara Krupa Annex II,
Bangalore.
52. C.H. Manoj Kumar,
S/o Kunhia Raman,
Aged about 23 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at 5/365, Krishnappa Bldg.
Jalahalli, Bangalore-13.

... Applicants



53. Smt. Kumuda Selvi,
D/o E. Parasuraman, E.
Aged about 26 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.37/A, Kallahalli,
Kensington Park Road,
Shivanshetty Gardens,
Bangalore.
54. Arivalagan,
S/o S.A. Lingesan,
Aged about 34 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.35/3, A Type Defence
Quarters, Someswarapura Extn.,
Bangalore.
55. Smt. Thamil Selvi R.,
D/o Ramamurthy,
Aged about 23 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.62, G Street,
Jokkupalayam Main Road, Ulsoor,
Bangalore.
56. S. Shashi Kumar,
S/o late S. Shanmugan,
Aged about 26 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.2689, 11th Main, D Block,
II Stage, Rajajinagar,
Bangalore.
57. Smt. D. Premalatha,
D/o dorairaj,
Aged about 25 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at no.110/1, Rudrappa Garden,
Vivekanagar,
Bangalore.
58. Smt. S. Arathi,
D/o M. Shekaran,
Aged about 20 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.1192, HAL III Stage,
New Thippasandra,
Bangalore.

... Applicants



59. Jagadeesha, S/o T. Krishna, m
Aged about 26 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.B246/1, Pushpa Enterprises,
Bahubalinagar, Jalahalli,
Bangalore.
60. K. Shivakumar, S/o Seshappa,
Aged about 23 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.508, MES Road, Gokula,
Bangalore.
61. V.C. Ranjeeth Kumar,
S/o U. Leela,
Aged about 29 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.298, Puttappa Layout,
New Thippasandra, HAL III Stage,
Bangalore.
62. Smt. M. Chitra, d/o M. Mothu,
Aged about 22 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.9, 2nd Cross,
Saraswathipuram, Ulsoor,
Bangalore.
62. R. Beena Kumar,
D/o S. Ranganathan,
Aged about 20 years,
Working as Casual Employee,
Passport Office, Bangalore,
r/at No.20, J.B. Street, Vivekanagar.. Applicants in
O.A.No.238 & 394 to 455/94

64
Miss K.G. Asha,
D/o T.K. Gaikwad Naidu,
Aged about 27 years,
R/a No.528, 1st Floor,
4th Cross,
K.S.Garden,
Lalbagh Road,
Bangalore. ... Applicant in O.A. No.341/94

[By Advocates S/Shri K.R.D. Karanth,
S.G. Bhat and M.R. Achar]

1. Union of India
represented by Secretary,
Ministry of External Affairs,
Patiala House,
New Delhi-110 001.
2. The Regional Passport Officer,
25/1, Shankaranarayana Building,
M.G. Road,
Bangalore. ...Respondents in all
the applications

[By Advocate Shri M.S. Padmarajaiah,
Senior Standing Counsel for Central Government]

O R D E R

Shri A.N. Vujjanaradhya, Member [J]:

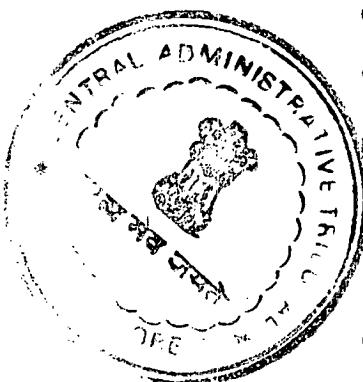
1. The applicants are aggrieved by the alleged oral termination of their services by the Respondent ['R' for short] No.2 and have made this application seeking regularisation of their service and continuance in service.
2. Briefly stated the case of the applicant is as below:

The applicants were recruited locally as Casual Employees ['CEs' for short] on daily wage basis. Though the applicants and others are called CE^s on daily wages, payment is made only on the first of the following month on the basis of attendance recorded. An artificial break of service is created after every 45 days by asking the applicants not to work on that day. In terms of OM dated 10.9.1993 the CE^s who have put in 206 days of work in a period of one year in the offices which work for five days in a week and 240 days in a period of one year where the



offices work for six days in a week are entitled to be treated as temporary employees for the purpose of pay, increments, leave and other benefits. The said OM provides for termination of service only by giving one months notice in writing [Annexure A in O.A. No.341/94]. Accordingly, the applicants have acquired temporary status. The applicants attend to the work of issuing pass-ports, renewing pass-ports and other ancillary duties given to them in the office of R-2 and sometimes they were required to work on Saturdays and also beyond working hours of the office. Still on 31.1.1994 at about 6.15 PM the Regional Pass-port Officer called the applicants ie., all the CEs and informed them orally that she had received instructions from the Ministry to terminate the services of the CEs and, therefore, they need not come for duty from the next day onwards. No written order was served on the applicants. CEs who have put in more than three years of service have been paid bonus from time to time on par with other regular employees in addition to their wages. The termination of services without notice is illegal, invalid and arbitrary. Having regard to the service rendered by the applicants, they are entitled to regularisation from the date of their employment. Because of the abrupt and arbitrary action of R-2 the livelihood of the applicants is deprived. Hence, the application seeking regularisation of their service and for declaration that the applicants continue in service and to restrain





the respondents from terminating their service till regularisation of their service and for grant of such other reliefs deemed fit.

3. The respondents oppose the application on various grounds. Inter alia they plead that R-2 always engaged the services of the applicants for clearing some arrears of work pending in the office but not continuously for want of work. Even the conferment of the temporary status as per OM dated 10.9.1993 is on need basis and, therefore, the said OM is not applicable to the applicants. The applicants had not worked continuously for more than a year and they have not been engaged through Employment Exchange ['EE' for short]. Because there is no post on daily rated basis which is permanent or temporary in nature the applicants can neither seek regularisation of service nor engagement. The Staff Selection Commission who conducted a qualifying examination on 26.12.1993 found some of the applicants were not eligible to take up the examination. Hence the applications lack merit and they are liable for dismissal.

4. We have heard Shri K.R.D. Karanth, Shri S.G. Bhat and Shri M.R. Achar, learned counsel representing the applicants and Shri M.S. Padmarajaiah, learned Senior Standing Counsel representing the respondents.

5. On behalf of the applicants it was urged that the applicants who have put in more than one year



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of service as temporary employees could not have been terminated without notice in writing but they should have been regularised having regard to the fact that there is enormous work pending in the Passport Office and the same is further formulated in the scheme dated 10.9.1993 found at Annexure A. Referring to various judgments of the Supreme Court and Benches of this Tribunal, it was urged that the applicants are entitled for regularisation and their oral termination of service is arbitrary and illegal. Pointing out that respondents have not placed any material to show that there is no work, it was contended that there is lot of work to be attended to in the office and, therefore, the contention of the respondents that there is no work and, therefore, the applicants cannot be continued is without any basis. Controverting the above contentions it was contended by the learned Standing Counsel representing the respondents that the scheme at Annexure A speaks of only conferment of temporary status and not regularisation and even that conferment of such temporary status is dependent on circumstances and conditions stipulated therein and because the applicants do not satisfy such conditions, they are not entitled to the reliefs sought in these applications. However, the learned Standing Counsel produced a statement showing the attendance of all CES who were working in the office of R-2 for various periods with total number of days of work calculated not only on the basis of five day week but also on the basis



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of six day week and contended that only some of the applicants had worked for more than 206 days in a year of five day week and 240 days in a year of six day week and if the applicants satisfy the conditions stipulated in the scheme at Annexure A dated 10.9.1993, such applicants alone can seek for conferment of temporary status.

6. The applicants dispute the correctness of the statement showing the attendance of applicants and others in the statement made available by the respondents. However, that will not loom large at this stage. But the contention of the learned counsel for the applicants is that the scheme at Annexure A dated 10.9.1993 is only a formulation of what was reviewed in the light of the judgment of Principal Bench of this Tribunal and what is envisaged in the said scheme was equally applicable to the applicants even prior to coming into force of the said scheme. Such being the case it was vehemently urged that the alleged oral termination of service of the applicants without one month's notice in writing is illegal and arbitrary and, therefore, such termination cannot be sustained. We must agree with this contention of the applicants which is well taken. The contention of the learned Standing Counsel was that none of the applicants was appointed on the basis of any order in writing and, therefore, the applicants could not have expected one month's notice in writing before



the termination. Because it is further contended by the learned Standing Counsel that there was no work and because employment was on the basis of need, applicants and others were asked not to attend the office particularly for the reason that Ministry had directed to discontinue such CEs. This contention of the learned Standing Counsel is not based on any sound reasoning. Just because the applicants were employed as CEs on daily wage basis without any order in writing, they cannot be contended to be workers without any status as such. Having admitted the fact that some of the applicants have worked for more than one year, it does not lie in the mouth of the respondents to contend that they were not entitled to the one month's notice before termination of their service.

7. As rightly contended by the learned counsel for the applicants, the scheme at Annexure A dated 10.9.1993 pertaining to grant of temporary status and regularisation of service was the review of the policy in the guidelines on the subject dated 7.8.1988 based on the judgment of the Principal Bench of this Tribunal. It is advantageous to quote clauses 4 to 7 of this scheme which came into force with effect from 1.9.1993.

"4. Temporary status:

- i. Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least

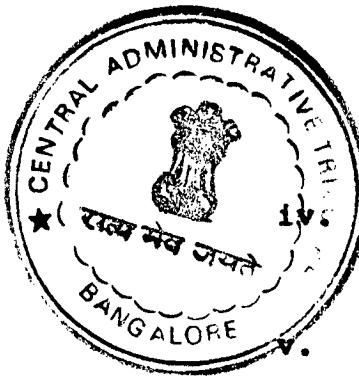


one year, which means that they must have been engaged for a period of at least 240 days [206 days in the case of offices observing 5 days week].

- ii. Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.
- iii. Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.
- iv. Such casual labourers who acquire temporary status will not however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

5. Temporary status would entitle the casual labourers to the following benefits.

- i. Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular group 'D' official including DA, HRA and CCA.
 - ii. Benefits of increments at the same rate as applicable to a Group D employee would be taken into account for calculating pro-rata wages for every one year of service subject to performance of duty for at least 240 days [206 days in administrative offices observing 5 days week] in the year from the date of conferment of temporary status.
 - iii. Leave entitlement will be on a pro-rata basis at the rate of one day for every 10 days of work, casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.
 - iv. Maternity leave to lady casual labourers as admissible to regular Group D employees will be allowed.
- 50% of the service rendered under Temporary Status would be counted for the purpose of retirement benefits after their regularisation.
- vi. After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group D employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions



as are applicable to temporary Group D employees, provided they furnish two sureties from permanent Govt. servants of their Department.

vii. Until they are regularised, they would be entitled to productivity linked Bonus/Ad hoc bonus only at the rates as applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in Industrial establishments in view of provisions of Industrial Disputes Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of casual labourers may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month the wages for the notice period will be payable only for the days on which such casual worker is engaged on work."

Though at one stage Shri Padmarajaiah had contended that the applicants do not satisfy the conditions of this scheme on the ground that many of them did not continuously serve for more than 240 days or 206 days, as the case may be, and that the scheme is applicable on the basis of need and availability of work but that some of the applicants may be eligible for conferment of temporary status under clause 4(1) of the scheme, he further contended that the merit of each applicant would be considered by the respondents. Now it is not in dispute that some of the applicants have worked for more than one year i.e., 240 days or 206 days respectively having six day or five day week. Temporary status could be conferred on CE who satisfy

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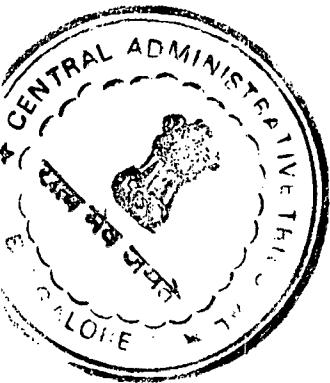
the conditions stipulated in clause 4 and such conferment of temporary status would enable the worker the benefits enumerated in clause 5 of the scheme. However, under clause 7, in spite of conferring temporary status, the service of such casual worker or labourer can be dispensed with by giving a notice of one month in writing and that even the worker having such temporary status can quit by giving one month's notice. It is also stipulated that conferment of temporary status would be without reference to the availability of regular Group D posts.

8. It is the contention of the learned counsel for the applicants that there is lot of work to be attended to in Passport Office and the respondents have not produced any material to show that there is no work and that, therefore, the applicants cannot be employed. It is not for us to sit in judgment over the availability or otherwise of the work. This Tribunal cannot go into that aspect of the matter. Therefore, we are unable to accept the contention of the learned counsel that there is work in the office of R-2 and, therefore, the applicants are entitled for a declaration that they should be continued in service by the respondents. It is also the contention of the respondents that there are no posts in the office of R-2 for employing any of the applicants and that if and when any posts become available, definitely the applicants who are qualified and who rank high in the list to be prepared for conferment of temporary status



would be employed. This in our view is quite a reasonable submission. The scheme in Annexure A speaks of ~~A~~ regularisation of the service of casual workers with temporary status by filling up Group 'D' posts only if regular vacancies in Group 'D' exist. Since the respondents contend, that no such vacancies exist in Group 'D' the applicants who are found eligible for temporary status are not entitled to any regularisation of their service.

9. Because even the services of the applicants entitled to temporary status were terminated orally without giving one month's notice as stipulated in clause 7 of the scheme at Annexure A, such termination cannot be said to be valid. However, having regard to the plea that there is no work and no post is available for continuing the applicants in service as CES as contended by the respondents, such of the applicants, who are entitled to temporary status, it is reasonable to observe, will be entitled to one month's emoluments that they were being paid while in service in lieu of one month's notice. Under the circumstances, it would not be proper to direct the respondents to either reinstate the applicants or to direct their continuance in service as sought by the applicants. Even under clause 8 of this scheme in Annexure A, the procedure for filling up the Group D post is two out of every three vacancies in respective offices as per the extant recruitment rules. Therefore, it is clear that regularisation of service of the applicants sought cannot



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be directed to be granted by the respondents.

10. Learned counsel for the applicants had referred to several decisions of the Supreme Court and Ernakulam Bench of this Tribunal in O.A. No.903/91 and other connected cases decided on 25.3.1993. The applicants before the Ernakulam Bench of this Tribunal were selected and appointed through EE as CE, and the regularisation of their service was directed to be considered subject to their getting qualified with some departmental tests and also subject to availability of vacancies. In the instant case the applicants are entirely relying on the scheme dated 10.9.1993 at Annexure A and they are seeking regularisation on the basis of the said scheme and therefore, the decision of Ernakulam Bench cannot be claimed to be applicable to the facts of the present case.

In BHAGAVATHI PRASAD V. DELHI STATE MINERAL DEVELOPMENT CORPORATION reported in AIR 1990 SC 370 where the petitioners had worked for more than three years were directed to be appointed on a regular basis cannot be made applicable to the present applications because the applicants who base their claim on the scheme at Annexure A will have to satisfy the stipulations therein. Similar is the case with regard to the support sought by the applicants in U.P. INCOME TAX DEPARTMENT CONTINGENT PAID STAFF WELFARE ASSOCIATION V. UNION OF INDIA reported in AIR 1988 SC 578, L. ROBERT D'SOUZA V. EXECUTIVE ENGINEER, SOUTHERN RAILWAY



reported in AIR 1982 SC 854 and JACOB M. PUTHUPARAMBIL V. KEARALA WATER AUTHORITY reported in AIR 1990 SC 2228. We do not think that it is necessary for us to set out the facts of all these cases and distinguish the same inasmuch as the applicants' claims will have to be considered on the basis of the scheme at Annexure A.

11. Such of those applicants who were in employment on 10.9.1993 and who rendered continuous service for at least one year ie., 240 days or 206 days in respect of 6 day or 5 day week office respectively would be entitled to conferment of temporary status as per the scheme which came into force with effect from 1.9.1993 at Annexure A which, however, would be without reference to the availability of regular Group D posts. Therefore, the respondents will have to consider the merit of each of the applicants in these applications and confer temporary status on those who are eligible for the same even though the applicants are not entitled to the regularisation of their service sought in these applications.

12. In the conspectus and circumstances of the case, we direct the respondents to consider conferment of temporary status on such of the applicants as are eligible under the scheme dated 10.9.1993 at Annexure A and also pay one month's emolument in lieu of notice



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of termination to such applicants within a period of four months from the date of receipt of a copy of this order. No costs. We would also appreciate if the respondents take such action as may be necessary having regard to the scheme dated 10.9.1993 and the submission made by the learned counsel for the respondents at para 8 and engage the ~~seniors~~ ^{respective} of such of the applicants as may be conferred with temporary status.



bsv

TRUE COPY

MEMBER (A)

MEMBER (J)

"30/6/94" *Scd*

S. S. Shrivastava
SECTION OFFICER 117
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE