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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD.

D.A.No. 141 of 1989

DATE OF DECISION: - - - - - 25/4/1990

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Between:-

Smt.N.Kalavati & 6 others - - - - - Petitioner(s)

Sri V.Venkateswar Rao - - - - - Advocate for the
petitioner(s)

Versus

Union of India & 2 others - - - - - Respondent.

Sri Naram Bhaskar Rao, Addl.CGSC. - - - - - Advocate for the
Respondent(s)

CORAM:

THE HON'BLE MR. B.N.JAYASIMHA, VICE-CHAIRMAN.

THE HON'BLE MR. D.SURYA RAO, MEMBER (JUDICIAL).

1. Whether Reporters of local papers may be No allowed to see the Judgment ?
2. To be referred to the Reporter or not ? ^{to}
3. Whether their Lordships wish to see the fair copy of the No Judgment ?
4. Whether it needs to be circulated to No other Benches of the Tribunals ?
5. Remarks of Vice Chairman on columns 1, 2, 4 (To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

B.N.J.

(B.N.J.)

D.S.R.

(D.S.R.)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

O.A.NO. 141 of 1989

Date of Order: 25-4-1990

1. Smt.N.Kalavati
2. Smt.Yadamma
3. Smt.T.Laxmamma
4. Smt.Rabia Bee
5. Smt.D.N.Nagamani
6. Smt.K.Kalavati
7. Sri L.D.Chandraiah

.....Applicants

versus

Union of India, rep. by Secretary
to Government of India, Ministry
of Agriculture, Krishi Bhavan,
New Delhi and 2.others

.....Respondents

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For Applicants: Mr.V.Venkateswar Rao, Advocate

For Respondents: Mr.Naram Bhaskar Rao, SC for the Dept.

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C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI D.SURYA RAO: MEMBER (JUDICIAL)

...

(Judgment of the Bench delivered by Hon'ble Shri D.Surya
Rao, Member (Judicial)).

1. The applicants herein were working as Casual Labourers since 9 to 10 years continuously and uninterrupted in Central Plant Protection Training Institute, Rajendranagar, Hyderabad. They state that the posts in which they were working are permanent and continuous in nature. The applicants are therefore entitled for regularisation of their services. They were paid Rs.12.75 ps per day for more than a decade. It is contended that according to the Government of India's

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guidelines contained in letter no.D.M.No.F.49014/2/86-Estt(C) dated 7-6-1988, Casual workers are entitled to be paid 1/30th of the pay at the minimum of the relevant pay scale plus DA for the work of 8 hours a day. The guidelines also provide for regularisation of casual workers in a phased manner on a time bound schedule. It is stated that 16 posts have been sanctioned in the 3rd respondent's institute for regularisation of casual labours working in the said institution. The applicants contend that they are entitled for regularisation against the said posts. Their juniors viz., Vikram Singh, Raghu Babu and others were regularised against some of the 16 sanctioned posts. It is further stated that through the impugned letters no.F.No.42(1)/WS-88-89 dated 1-12-1988, the 3rd respondent served notice terminating the services of the applicants with effect from 1-1-1989. The order of termination was served on 12-12-1988 in respect of all the applicants except applicant no.1 who was served on 21-12-1989. Even before expiry of the one month's period prescribed the services of the applicants were stopped with effect from 1-1-1989. The applicants contend that such termination is violative of Section 25F of the Industrial and Disputes Act/ that the action of the respondents in terminating the services of the applicants while retaining and regularising the above named juniors is illegal, arbitrary and violative of Article.14 of the constitution. It is further contended that out of 16 sanctioned posts, ^{yet} still 7 posts are vacant against which they can be regularised and continued in service. It is, therefore, prayed that the Tribunal may be ~~gratified~~

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pleased to call for records pertaining to the impugned letter dated 1-12-1988 issued by the 3rd respondent and quash the same as illegal and arbitrary.

2. On behalf of the respondents a counter has been filed denying the claims of the applicants that they have worked continuously for 8 to 10 years. It is stated that during the last six years, they were engaged for a maximum of 19 days in a month. It is further contended that the applicants were engaged on daily wage basis and were liable to be disengaged without any reason. As a matter of precaution and in order to give the applicants due notice of their disengagement a notice of their termination i.e. the impugned letter dated 1-12-1988 was issued. Due to financial constraints and in order to affect stringent economy in the administrative expenditure of the department, it was decided as a matter of policy to disengage the ~~redeployment~~ ^{redeployment} of casual labourer and to manage the work by ~~reemployment~~ ^{work} of existing regular staff. It is stated that there are only five regular beldars attending Farm Operational work in the 3rd respondent's institute, that in addition to these five regular employees some additional labour is engaged which engagement is purely temporary and ^{work} when the work is over, their services are dispensed with. It is further contended that instructions/guidelines of the Government of India are ~~not~~ strictly being followed while regularising the services of Casual Labourer and that so far the Institute had 17 Casual Labourer on its ^{work} Muster Roll and out of them 10 were appointed on Group D posts on ~~the~~ basis of seniority-cum-fitness. It is

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It is denied that the services of Raghu Babu and others, juniors to the applicants, were regularised. It is contended that there is no such person by name Raghu Babu engaged by the Institute. So far as Vikram Singh is concerned, it is stated that he was on muster roll since 1981 onwards and he was selected and appointed as Ward Boy w.e.f. 4-10-1985. Thus, Sri Vikram Singh is senior to all the applicants. It is further contended that the services of all casual labourers had been dispensed with to effect stringent economy and in terms of the orders issued by the Government of India in proceedings No.53(13)/88-Acs(C) dated 30-11-1988. It is, therefore, contended that there is no illegality or arbitrariness in the orders terminating the services of the applicants.

3. We have heard the arguments of Shri V.Venkateswar Rao, learned Counsel for the applicants and Shri Naram Bhaskar Rao, learned Additional Central Government Standing Counsel, for the department.

4. Shri Venkateswar Rao did not stress the contentions raised in the application namely that the applicant is an industrial worker and consequently termination is violative of section 25-F of the Industrial Disputes Act. ^{however} ~~Q~~ He further contends that the juniors to the applicants are being continued on regular basis. This contention, however, was not substantiated. The respondents in their counter have denied that any junior casual labourer to the applicants has been absorbed on regular basis. The case cited in the application namely Raghu Babu and Vikram Singh cannot be of any avail to the applicant since it is denied that any person by name Raghu Babu was regularised or engaged

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by the Institute. In so far as Vikram Singh is concerned, admittedly he is senior to the applicant having been brought on mustar rolls from 1981. It has been stated in the counter that he has been regularised as Ward Boy w.e.f. 4-10-1985. It is clear therefore that he has been regularised long ago on the ground of seniority. The applicants cannot have any grievance in this regard.

5. The next contention raised by Shri Venkateswara Rao is that there are/vacant posts of Group-D and this has not been denied by the respondent. It is, therefore, contended that they are entitled to be regularised in those vacancies. The respondents, however, contended that the work which the casual labourers were attending to previously is now being attended to by re-deployment of the existing staff. This course was adopted in order to effect economy in administrative expenditure. It will, therefore, be clear if that even/a vacancy exists, the respondents cannot be compelled to fill up that vacancy. However, as and when vacancies are sought to be filled, the applicants would be entitled to be considered and appointed in accordance with their seniority. This is because, admittedly they have been working as Casual Labourers in the Respondents' organisation for the last more than 5 to 6 years, ^{and} the fact that they were working for the last so many years ^{Further} has not been denied by the respondents. Admittedly the practice in the past has been to regularise and appoint a Group-D employee in the posts such as Peons, Chowkidars, Sweepers, Wardboys, Malis, Field Attendants, Beldar, etc., only from among the Casual Labourers as and when vacancies are available. Since the applicants have been working for long periods, ^{be considered} they would be entitled to consideration.

To:

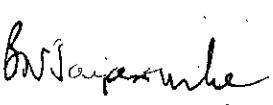
1. The Secretary to Government of India, (Union of India)
Ministry of Agriculture, Krishi Bhavan, New Delhi-1.
2. The Plant protection Adviser to the Government of India,
Ministry of Agriculture, Directorate of plant protection orga-
nisation and Scheme, NH-IV, Faridabad 409, 8th wing sastri
bhavan, New Delhi-1.
3. The Director, Central Plant protection Training Institute,
Government of India, Rajendranagar, Hyderabad-500 030.
4. One copy to Mr.V.Venkateswar Rao, Advocate, 1-1-287/27,
Chikkadpalli, Hyderabad.
5. One copy to Mr.Naram Bhaskara Rao, Addl.CGSC, BAT, Hyderabad.
6. One spare copy.

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as and when these posts are being filled up. W3

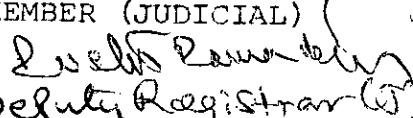
6. It is further contended by Shri Venkateswar Rao that despite being given the termination notice dated 1-12-1988 to the effect that the applicants' services shall stand terminated after one month i.e. w.e.f. 1-1-1989, a full one month notice was not given to the applicants. It is contended that the termination order was sent only much later than on 1-12-1988. It is, therefore, contended that one month notice would expire on 20-1-1989 in respect of applicant No.1 and on 12-1-1989 in respect of other applicants. Since they were terminated on 1-1-1989, it is contended that full one month notice period has not been served upon them. This objection of the applicants has not been denied in the counter. Therefore it would follow that the applicants will be entitled to difference of pay from the date of termination i.e. 1-1-1989 till the completion of one month notice period computed from the actual dates of service of the notice.

7. For the reasons given above, the application is allowed to the extent that they would be entitled to difference in wages between the date of termination till the completion of one month notice period i.e. 1-1-1989 to 20-1-1989 in the case of applicant No.1 and from 1-1-1989 to 12-10-1989 in the case of the other applicants. The applicants are also entitled to be considered for appointment to vacancies in Group-D posts as and when they are sought to be filled up by the respondents in accordance with their seniority. They would also be entitled to be engaged as Casual Labourers, if and when respondents seek to engage such Casual Labourers, in preference to outsiders. In the circumstances, parties are directed to bear their own costs.


(B.N.JAYASIMHA)

VICE-CHAIRMAN


(D.SURYA RAO)
MEMBER (JUDICIAL)

DATED: 25th April 1990 
Deputy Registrar (J)

CHECKED BY

TYPED BY:

COMPARED BY :

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:HYD.

HON'BLE MR.B.N.JAYASIMHA: V.C.

HON'BLE MR.D.SURYA RAO: MEMBER:(JUDL)

A N D

HON'BLE MR.J.NARASIMHA MURTHY(M)(J)

A N D

HON'BLE MR.R.BALASUBRAMANIAN:(M)(A)

DATED: 25-4-90

ORDER/JUDGMENT:

M.A./R.A./C.A./No. in,

T.A.No. W.P.No.

O.A.No. 141189

Admitted and Interim directions issued.

Allowed, in part and in part.

Dismissed for default.

Dismissed.

Disposed of with direction.

M.A. ordered.

No order as to costs.

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