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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA 3/90.

Dt. of Order: 16-7-93.

- | | |
|-----------------------------|--------------------------|
| 1. K.Kistappa | 41.Singaram Durgaiah |
| 2. Erra Venkataiah | 42.Rampalli Biskhapathi |
| 3. Tharala Venkataiah | 43.Chandragouni Kistaiah |
| 4. Perka Rajaiah | 44.Kannam Yellaiah |
| 5. Tharala Veeraiah | 45.Kappra Kistaiah |
| 6. M.Lingappa | 46.Kannoor Mallaiah |
| 7. Thangalla Muthaiah | 47.A.Tota Yadaiah |
| 8. Rodda Lylaiah | 48.S.Muslaiah |
| 9. Rodda Kanakamma | 49.Manda Yadi Reddy |
| 10.Raseori Lachhamma | 50.R.B.Yadaiah |
| 11.Nearti Durgaiah | 51.C.Narasimha |
| 12.Meddela Narsaiah | 52.Gunti Narsimha |
| 13.Davnda Ramuloo | 53.Caya Nagaiah |
| 14.Redda Shankaraiah | 54.Nagaiah. L |
| 15.Rasoori Bhoomaiah | 55.Annala Anji Reddy |
| 16.Kali Naresaiah | 56.Tota Yadaiah |
| 17.Bollam Rajaiah | 57.Kappra Narsimha |
| 18.R.C.Maodaiah | 58.Burma Mallaiah |
| 19.B.Sameul | 59.O.Chandraiah |
| 20.Kongari Rochaiah | 60.Potta Anjaiah |
| 21.K.Raja Narsaiah | 61.Chakkila Mallesh |
| 22.Manda Pochaiah | 62.Cera Shivaraju |
| 23.Kadari Nagaiah | 63.I.Sudarshan Reddy |
| 24.Md.Shabooddin | 64.Poogaku Bhoomaiah |
| 25.Jauagam Modaiiah | 65.K.Kista Reddy |
| 26.L.Chennaiah | 66.Chinagi Mallaiah |
| 27.Awula Belaiah | 67.Kappra Bal Ram |
| 28.Bathula Lingam | 68.Polagouni Yadaiah |
| 29.Maykala Rajaiah | 69.Kappra Anthaiah |
| 30.Kankam Mallaiah | 70.Arpulla Anjaiah |
| 31.Muppidi Pochaiah | 71.K.Linga Reddy |
| 32.D.Pentaiah | 72.Baboobri Yadaiah |
| 33.D.Venkataiah | 73.Gunti Rajaiah |
| 34.Kouda Mallaiah | 74.Tatikonda Venkatesh |
| 35.Meedi Lachhaiah | 75.Kappra Ramuloo |
| 36.S.Pedduloo | 76.K.Laxma Reddy |
| 37.Ramchandar | 77.B.Venkat Reddy |
| 38.Doosari Ramaiah | 78.Vengeti Malla Reddy |
| 39.J.P.Mallaiah | 79.Kavam Mysiah |
| 40.Kaley Ramulu | 80.Abraham |

Versus

....Applicants

1. Union of India, rep. by
Secretary, Ministry of Railways, New Delhi.
2. General Manager, SC Railway, Sec'bad.
3. Chief Commercial Superintendent,
SC Railway, Sec'bad.

....Respondents

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Counsel for the Applicants : M/s G. Bikshapathi,
V. Viswanatham &
G. Vidyasagar

Counsel for the Respondents : Shri D. Gopal Rao, SC for Rlys

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CORAM:

THE HON'BLE SHRI A.B. GORTHI : MEMBER (A)

THE HON'BLE SHRI T. CHANDRASEKHAR REDDY : MEMBER (J)

(Order of the Divn. Bench passed by
Hon'ble Shri A.B. Gorthi, Member (A)).

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All the eighty applicants herein claim that they were initially employed as casual labour under the Central Railways, Hubli. They were subsequently allowed to form a co-operative society and it was through this Hamali Labour Co-operative Society the respondents were getting casual labour work done by the members of the Society. So far as the applicants are concerned ^{they} were ~~doing the~~ attending to loading and unloading work at Moulali Transshipment Yard. The applicants have been working continuously ranging from 10 to 15 years. They were being

....2.

22/8/

paid on piece rate basis through the society. In view of conversion of the Railway Line at Moulali from Meter guage to Broadguage it is likely that the work for the Hamali's diminish^{es} substantially. Consequently the applicants would be left with no work. The prayer of the applicants is that a direction be issued to the Respondents to absorb the applicants as Kalasis or Helpers or in any other suitable posts duly framing a scheme for their absorption.

2. The Respondents in their reply affidavit have stated that the applicants are the persons being engaged by the Hamali Labour Co-operative Society ~~as~~ and when there is work to be performed under the Respondents. They denied the applicants' contention that they are directly engaged by the Respondents as Casual Labour initially. The contention of the Respondents is that the applicants ~~were~~ not in continuous engagement by the Respondents but they were merely being engaged by the Society ^{as} and when there is work. The Respondents further submit that the Society ^{is} directly contracted by the Railways and it has obtained licenses under the Contract Labour (Abolition and Regulation) Act, 1970.

3. We have heard learned counsel for both the parties. Shri Bikshapathy, counsel for the applicants contends that it would be grossly unjust and unfair

(if) the applicants who had rendered services ^{under} the Respondents for the periods ranging 10 to 15 years are left without any job at this stage as the work in Moulali Transshipment Yard is going to diminish substantially in near future. The applicants ^{may thus} suffer for want of work. It is prayed that the Railways should formulate a scheme with a view to protect the interests of the applicants.

4. Our attention has been drawn to a judgment of the Tribunal in TA 142/87 (WP No.2859/85). What was a case pertaining ^{ing} to Railway Porters who had claimed similar relief as that is being claimed in the present case. As the nature of duties performed ^{by} Railway Porters is not similar to that of Casual Labour engaged on full time basis, the Tribunal did not allow the relief sought for by the Railway Porters in the said case. In rejecting TA 142/87 the Tribunal followed ^{an} earlier Judgment of the High Court of Andhra Pradesh in W.P. 8933/85 decided on 23-9-88. The Hon'ble High Court rejected the contention that the licenced porters should be treated as regular workmen or casual workmen and ^{that} the benefit with regard to casual labour should be extended to the licenced porters also.

5. From the facts averred in the present application it is clear that the applicants are not treated by the Respondents as Casual Labour or as Temporary employees

Copy to:-

1. Secretary, Ministry of Railways, Union of India, New Delhi
2. General Manager, South Central Railway, Secunderabad.
3. Chief Commercial Superintendent, South Central Railway, Secunderabad.
4. One copy to Sri. G. Bikshapathi, advocate, CAT, Hyd.
5. One copy to Sri. D. Gopal Rao, SC for Railways, CAT, Hyd
6. One copy to Library, CAT, Hyd.
spare.
7. One/copy ~~xx~~.

Rsm/-

6th copy
per 2
7/8/3

at any stage. In view of this it is apparent that the various schemes drafted by the Railways for the benefit of casual labour cannot be extended to Hamalis. The question of giving a direction to the Respondents for regularisation or absorption would arise only if it is shown clearly that there are posts available against which such regularisation/absorption can be made. Similarly it would be possible for the Tribunal to give a direction to the Respondents to continue an individual in employment only if there is work.

In this case according to the apprehension expressed by there will be a decrease of work to a large extent the applicants at Moulali Transhipment Yard in near future. In these circumstances we may not even direct the Respondents to continue to engage the applicants as Hamalis. It is however open to the Respondents to consider engaging the applicants as casual labour/hamali if the same is possible in accordance with the extent instructions.

6. In the result we are unable to accede to the request made in this O.A. No order as to costs.

T. Chandrasekhar Reddy
(T. CHANDRASEKHAR REDDY)
Member (J)

A. B. Gorthi
(A. B. GORTHI)
Member (A)

Dated: 16th July, 1993.
Dictated in Open Court.

82/893
By Registrar (A.B.)

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O.A. 3/90

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 16/7/1993

ORDER/JUDGMENT:

M.A/R.A/C.A.N.

in

O.A.No.

3/90

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

pvm

Central Administrative Tribunal
DESPATCH

5 AUG 1993

HYDERABAD BENCH

(8)