

(26)

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 Biskhapatih
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 <u>Iylaiah</u>	48.S.Muslaiah
9. Rodda Kanakamma	49.Manda Yadi Reddy
10.Rasoori Lachhamma	50.R.B.Yadaiah
11.Nearti Durgaiah	51.C.Narasimha
12.Maddela Narsaiah	52.Gunti Narsimha
13.Davnda Ramuloo	53.Ceya Nagaiah
14.Redda Shankaraiah	54.Nagaiah.
15.Rasoori Bhoomaiah	55.Annala Anji Reddy
16.Kali Naresaiah	56.Tota Yadaiah
17.Bollam Rajaiah	57.Kappra Narsimha
18.R.C.Modaiah	58.Burma Mallaiah
19.B.Sameul	59.O.Chandraiah
20.Komgari 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 Modaiah	65.K.Kista Reddy
26.L.Chennaiah	66.Cinagi Mallaiah
27.Awula Balaiah	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.Babooibri Yadaiah
33.D.Venkataiah	73.Gunti Rajaiah
34.Kouda Mallaiah	74.Tatikonda Venkatesh
35.Meadi 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

(23)

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 ~~making~~ the  
attending to loading and unloading work at Mouali Tran-  
shipment Yard. The applicants have been working conti-  
nuously ranging from 10 to ~~15~~ years. They were being

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 diminishes 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 ~~as~~ 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 Transhipment 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). That was a case pertaining 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 contentions 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 avered in the present application it is clear that the applicants are not treated by the Respondents as Casual Labour or as Temporary employees

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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 88.

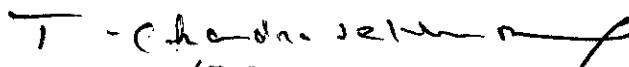
Rsm/-

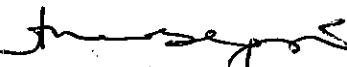
6th Oct  
Rsm/- 88

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.

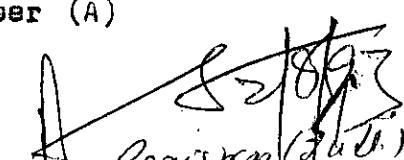
In this case according to the apprehension expressed by there will be a decrease of work to a large extent the applicants at Moulaii Transhipment Yard in near future. In these circumstances we may not even direct the Respondents to continue to engage the applicants as Hamalis. It is however open to the 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)  
Member (J)

  
(A.B. GORTHI)  
Member (A)

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

  
Dy. Registrar (Act)

av1/

Contd... 61-

O.A. 3/90

TYPED BY

COMPARED BY

CHECKED BY (8)

APPROVED BY

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.

O.A.No.

in  
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

