

# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

36

O.A. No. 188/90  
~~F.A. No.~~

Date of Decision : 17.9.90

\_\_\_\_\_  
Petitioner.

\_\_\_\_\_  
Advocate for the  
petitioner (s)

Versus

\_\_\_\_\_  
Respondent.

\_\_\_\_\_  
Advocate for the  
Respondent (s)

CORAM :

THE HON'BLE MR. *B.N. Jayasimha, Vice Chairman*

THE HON'BLE MR. *D. Surya Rao, Member (Jt.)*

1. Whether Reporters of local papers may be allowed to see the Judgement ? *no*
2. To be referred to the Reporter or not ? *no*
3. Whether their Lordships wish to see the fair copy of the Judgment ? *no*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *NA*
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)

*BNS*  
(BNS)

*DR*  
(DR)

39

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

ORIGINAL APPLICATION NO.188 of 1990

DATE OF ORDER: 17-9-1990

BETWEEN:

1. Mr. Anand
2. Mr. V.M.Krishna
3. Mr. Sayeed Khan
4. Mr. S.Narayan .. Applicants

AND

1. Union of India represented by  
its Secretary, Ministry of Defence,  
New Delhi.
2. The General Manager,  
Canteen Stores Department,  
Adelphi, 119, M.K.Road,  
Bombay.
3. The Area Manager,  
Canteen Stores Department,  
Trimulgherry,  
Secunderabad. .. Respondents

FOR APPLICANTS : Mr. G.Parameswara Rao, Advocate

FOR RESPONDENTS : Mr. E.Madan Mohan Rao, Addl. CGSC

CORAM: Hon'ble Shri B.N.Jayasimha, Vice Chairman  
Hon'ble Shri D.Surya Rao, Member (Judl.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE  
MEMBER(JUDL.) SHRI D.SURYA RAO.

.....

The applicants herein four in number state that  
they were sponsored by the Employment Exchange on a  
requisition sent by the 3rd respondent in the year 1987

for appointment to the post of Contingent Labour in the 3rd respondent's organisation. After an interview, they were selected for appointment on daily wage basis with effect from 13.8.1987. A year later, <sup>a</sup>the Board of officers including the representatives of the Minority community was constituted for selecting candidates for regular appointment against existing vacancies of Group 'D' posts. The applicants state that by virtue of their satisfactory work and the length of service put in by them, they were selected and included in the panel drawn by the Board in May, 1988. The Board recommended to the 2nd respondent the names of all the applicants for appointment. The applicants were made to understand that their services would be regularised against the permanent vacancies then existing in the 3rd respondent's organisation. The applicants were informed that for want of budget provisions, it was not possible to continue them. Therefore, beyond 31.3.1989, their services were not continued. Subsequently, the applicants came to know that as many as six persons have been brought from other places like Bangalore, Madras, Poona and Andaman & Nicobar and given regular appointments in the 3rd respondent's organisation. They contend that the action of the respondents in easing them out from service was motivated one, only to get outsiders of the choice of the respondents and is violative of rights under Articles 14 and 16 of the Constitution of India. It is further stated that one of them viz., the 1st applicant approached the 2nd respondent. He was informed that regular appointments are offered only to empanelled candidates based on their seniority with the Canteen Stores Depot on all India level. The reply further stated that

the applicant has to wait till his turn and take a chance and that offer of appointment is subject to availability of vacancies at the relevant time. The applicants thereafter filed the present application to call for the records relating to the letter dated 28.10.1989 by the 2nd respondent whereby the 1st applicant was informed that appointments were made according to the all India seniority list and ~~that~~ for quashing the same.

2. We have heard the learned counsel for the applicants, Shri G.Parameswara Rao and the learned counsel for the respondents, Shri E.Madan Mohan Rao, Addl. CGSC. Shri Madan Mohan Rao on behalf of the respondents contends that this Tribunal has no jurisdiction in regard to the claims of casual labourers. It is further contended that the Canteen Stores Department is a Government of India Department under the Ministry of Defence. The applicants were engaged on daily wage basis as a stop-gap arrangement to do day-to-day works. He further states that instructions had been issued by the Government of India in O.M.No.49014/2/86-Est.(C) dated 7.6.1988 in relation to recruitment of casual labourers. It is also contended that instructions have been issued in letters dated 19.9.1988, 17.10.1988 and 7.12.1988 by the Canteen Stores Department directing that an All India seniority panel should be drawn up and permanent appointments should be given to senior-most Group 'D' staff working in the Department. Accordingly, a ~~seniority list~~ seniority list of empanelled candidates has been drawn up and letters were <sup>being</sup> issued as per the existing vacancies. As applicants were juniors to other staff, their services were no more required while regularising the staff senior to them. Therefore, Shri Madan Mohan

Q

Rao contends that there has been no violation of Articles 14 and 16 of the Constitution of India. The main argument of Shri Parameswara Rao is that the instructions issued by the Department of Personnel & Training does not envisage maintainance of all India seniority for casual labourers as casual labourers are principally recruited by the local authorities. The Canteen Stores Department has erred in preparing all India seniority list. In support of his contention, he relies on the guidelines of the Ministry of Personnel, Public Grievances and Pensions dated 7.6.1988. Para (x) of the above guidelines reads as follows:-

"The regularisation of the services of the casual workers will continue to be governed by the instructions issued by this Department in this regard. While considering such regularisation, a casual worker may be given relaxation in the upper age limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age limit for the relevant post."

Shri Parameswara Rao contends that as the applicants herein have completed 450 days, they are entitled to regularisation in service. Shri Madan Mohan Rao on the other hand contends that there is no ~~prescription~~ rule prescribed prohibiting all India seniority list. Maintainance of all India seniority does not violate Article 16 of the Constitution. If this is not violated, in an establishment like Canteen Stores Department, persons who are put in long years of service would have to be ousted in preference to those who were put in short duration of service. He also contended that the instructions relied upon by Shri Parameswara Rao

40

441

does not also apply to this case because <sup>none of</sup> the applicants completed minimum of two years of continuous service as casual labourers.

3. We have considered these rival contentions. The short question which arises for determination is whether the instructions issued by the Board of Control, Canteen Stores in Letters dt. 11-9-88 and 7-12-1988 directing regularisation of Daily rated Group 'D' employees on the basis of a General All India Seniority List for all Departments is contrary to any instruction issued by the Ministry of Personnel. If there is any specific direction or instruction of the Ministry that in the case of regularisation of Group D employees separate seniority lists should be maintained for any region, zone, unit or office and that regularisation should be made only from such respective seniority lists then only the letters dated 11-9-1988 and 7-12-88 could be assailed. No such instruction has been brought to our notice by Sri Parameshwar Rao. As already stated above he has referred to Govt. of India, Ministry of Personnel Instructions dated 7-6-1988. These instructions do not prohibit the drawing of of an All India Seniority Panel or List. It follows that the instructions issued in the letters dated 11-9-88 and 7-12-1988 are not illegal. In equity also there is no illegality in drawing up an All India Seniority List since otherwise raw juniors in one unit could steal a march over persons with several years of seniority and experience in other units. In the circumstances we

A

contd...5

42

..6..

find no merit in the claims of the applicants. The application is accordingly dismissed. But in the circumstances, there will be no order as to costs.

*B.N. Jayasimha*  
(B.N. JAYASIMHA)  
VICE CHAIRMAN

*D. Surya Rao*  
(D. SURYA RAO)  
MEMBER (JUDL.)

DT. 17<sup>th</sup> September, 1990

*D. S. Ramaiah*  
Deputy Registrar (Judl)

To VSN/SQH

1. The Secretary, Union of India,  
Ministry of Defence, New Delhi.
2. The General Manager, Canteen Stores Department,  
Adelphi, 119, M.K. Road, Bombay.
3. The Area Manager, Canteen Stores Department,  
Trimulgherry, Secunderabad.
4. One copy to Mr. G. Parameswara Rao, Advocate, CAT. Hyd. Bench.
5. One copy to Mr. E. Madanmohan Rao, Addl. CGSC. CAT Hyd. Bench.
6. One spare copy.

pvm

*6/11/90*

17/9  
RVC  
6  
CHECKED BY

APPROVED BY

TYPED BY

COMPALED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

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

AND

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

AND

THE HON'BLE MR. J. NARASIMHA MURTY : M (J)

AND

THE HON'BLE MR. F. BALASUBRAMANIAN : M (A)

DATE: 17/9/90

ORDER/JUDGMENT:

M.A./ R.A./ C.A./ No.

in

T.A. No.

W.P. No.

O.A. No. 188/90

Admitted and Interim directions issued

Allowed.

Dismissed for Default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. Ordered/Rejected.

No order as to costs.

