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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A. No. 648/91.

Date of Judgment 27.9.1991

1. M.Ramesh

2. The Heavy Water Project
Contract Workers &
Employees Union, Manuguru,
rep. by its Joint Secretary,
Shri P.Anthaiah, Manuguru,
Khammam Dist. Andhra Pradesh .. Applicants

Vs.

1. Union of India,
rep. by its Chairman,
Atomic Energy Commission,
Bombay.

2. The Chief Executive,
Heavy Water Board,
Dept. of Atomic Energy,
Anushakti Bhavan,
Bombay-400039.

3. The General Manager,
Heavy Water Project,
Dept. of Atomic Energy,
Govt. of India, Manuguru,
Khammam Dist.

.. Respondents

Counsel for the Applicants : Shri V.Venkateswara Rao

Counsel for the Respondents : Shri N.R.Devaraj, Addl. CGSC

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

I Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn) I

This application has been filed by Shri M.Ramesh
and another under under section 19 of the Administrative
Tribunals Act, 1985 against the Union of India, rep. by its
Chairman, Atomic Energy Commission, Bombay and 2 others.

2. The applicants are working as casual workers on daily
wages and seek a direction that they should be paid at
1/30th of the regular scale as laid down in the Department o
Personnel and Training letter F.No.49014/2/86-Estt(C)

dated 7.6.88 instead of the lower rates they are now getting. It is pointed out that another unit of the department viz: Atomic Minerals Division is ^{already} ~~also~~ paying the casual workers in accordance with the order dated 7.6.88 of the Department of Personnel and Training. It is their case that they are working there for a long time and, therefore, entitled for regular absorption. To this end they moved the Industrial Tribunal which, by its order dated 3.12.90, directed the respondents to absorb the casual workers as regular employees by finding out ways and means. When the case was filed before the Industrial Tribunal in May, 1988, the orders of the Department of Personnel and Training dated 7.6.88 on which the applicants now rely had not been issued. Hence, this question could not be raised at that time. The applicants now allege that the award of the Industrial Tribunal has not been honoured yet. In this application, while the applicants do not press for regular absorption as ordered by the Industrial Tribunal they are pressing only for payment of wages in accordance with the letter dated 7.6.88 of the Department of Personnel and Training.

3. The respondents have filed a counter affidavit and oppose the prayer. It is their case that in the initial stages of the Project a large number of casual workers had to be engaged for various sundry works and that such a requirement does not exist now on completion of the Project. They have a large and idle work-force for which they have no work. They are, however, compelled to continue such a work-force on account of the court directions. They are aggrieved by the award of the Industrial Tribunal that a large work-force for whom they have no work has to be absorbed. The respondents have gone in appeal to the High Court of Andhra Pradesh. Since the payment of wages is also linked to the regularisation, it is contended by them that this

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application before this Tribunal is not maintainable when the appeal against regularisation is pending in the High Court.

4. We have examined the case and heard the learned counsel for the applicants and the respondents. We shall not go into the question of regularisation since that is not the subject matter before us. Since the applicants are concerned with the unit of the Govt. of India, there is no doubt that the order dated 7.6.88 of the Department of Personnel and Training covers them. In the course of the hearing the learned counsel for the applicants drew our attention to ~~sub-para~~ (iv) of ~~Para~~ Rule 1 and contended that the applicants are entrusted with the same type of work as the regular employees and, should therefore, be paid at 1/30th of the pay at the minimum of the relevant pay scale. He quoted a judgment of the Hon'ble Supreme Court reported in AIR 1991 SC 1173. which lays emphasis on the principle of equal pay for equal work. This was countered by Shri N.R. Devaraj, learned counsel for the respondents stating that ~~the idle work force~~ they are burdened with the idle work-force as a result of the court orders and in fact they have no work for them. Hence, ~~sub-para~~ (v) of ~~Para~~ Rule 1 would be applicable to this case and they are not required to pay at 1/30th of the regular pay scale. He has drawn our attention to a decision of the Hon'ble Supreme Court an extract of which he has furnished. We find that it relates to regularisation and that it is not concerned with rates of payment. We also find from the letter dated 7.6.88 that the rest of the casual workers (not eligible to be adjusted against regular posts) and whose retention is considered absolutely necessary and is in accordance with the guidelines are paid emoluments strictly in accordance with the guidelines. Here, it is contended vigorously by the respondents that they have no need for such a work-force.

R.J.

Copy to:-

1. Chairman, Atomic Energy Commission, Union of India, Bombay.
2. The Chief Executive, Heavy Water Board, Dept. of Atomic Energy, Anushekti Bhavan, Bombay.
3. The General Manager, Heavy Water Project, Dept. of Atomic Energy, Govt. of India, Manuguru, Khammam District.
4. One copy to Shri. V. Venkateswar Rao Advocate, 1-1-287/27, Chikkadpally, Hyderabad.
5. One copy to Shri. N.R. Devraj, Addl. CGSC. C.A.T. Hydbad.
6. One spare copy.

RSM/-

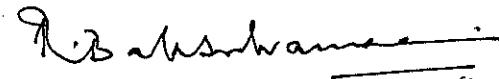
Shankar
21/10/91

In that case, normally they would be well within their rights to discharge such surplus staff in accordance with the order of 7.6.88 of the Department of Personnel and Training but in the present case they are prevented from doing so by virtue of stay orders by the High Court. Therefore, as of now, we are not in a position to give a direction to the respondents straightforward to pay them at 1/30th of the pay at the minimum of the relevant pay scale as prayed for by the applicants. Whether there is need to retain them on a regular basis or not would be decided after the appeal preferred by the respondents is disposed of. In case the respondents have to regularise the applicants, then it would be necessary for them to pay them at 1/30th of the regular rates, ^{even} for the duration that the applicants were serving as casual workers ~~and~~ after 7.6.88. Otherwise, they are not required to pay at this rate.

5. For the above reasons we direct the respondents to make payments in accordance with sub-rule (v) of Rule 1 of the letter dated 7.6.88 of the Department of Personnel and Training for the time being till the disposal of the appeal preferred by them. If required, the revision of rates ~~should~~ be examined after the disposal of the appeal.

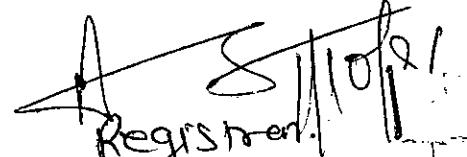
6. With the above directions the application is disposed of thus with no order as to costs.


(J. Narasimha Murthy)
Member(Judl).


(R. Balasubramanian)
Member(Admn).

Dated

27th September 91


Registrar.

A.SK
11/10/91
TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR. J. Narasimha Murty M(J)

AND

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

DATED: 27/9/1991

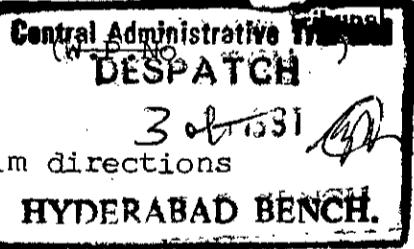
ORDER / JUDGMENT: ✓

M.A./R.A./C.A. NO.

in

O.A. No. 648791 ✓

P.A. NO.



Admitted and Interim directions

Issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

M.A. Ordered Rejected

✓ order as to costs.