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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.290 of 1992

DATE OF JUDGMENT: 28/10/OCTOBER, 1992

BETWEEN:

G.Yellamma

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Applicant

AND

1. Union of India represented by
The Secretary to Govt. of India,
Dept. of Public Works,
Ministry of Urban Development,
New Delhi.
2. The Chief Executive Engineer,
Hyderabad Central Division No.II,
Central Public Works Department,
Hyderabad.
3. The Assistant Engineer,
CPWD, Sub-Divn II/1(Civil),
Hyderabad-500660.

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Respondents

COUNSEL FOR THE APPLICANT: Mr. V.Venkateswara Rao

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ramana, Addl.CGSC

CORAM:

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

Hon'ble Shri C.J.Roy, Member (Judl.)

contd....

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI C.J.ROY, MEMBER (JUDL.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 filed by the applicant claiming a relief to absorb her against the existing or future vacancies of the posts of Sweepers or any other suitable posts belonging to the category of Group 'D' with immediate effect by holding that she is entitled to be paid wages on par with the regular sweepers with effect from the day on which she completed six months of service in terms of the Judgment of the Hon'ble Supreme Court referred in "Surender Singh Vs. Engineer-in-Chief I/C CPWD (1986(1) SLR p.555)," with all consequential benefits such as arrears of wages, allowances and seniority etc.

2. The facts in brief are as follows:-

The applicant was engaged as Part-time Sweeper from the month of May 1984 on a consolidated pay of Rs.60/- per month. She attends to her duty generally between 7 AM to 1 PM and sometimes she works for full time. The applicant states that Sweepers appointed on full time in the same organisation are being paid the scale of Rs.750-940, total emoluments being Rs.1300/- per monthgapproximately. The full time Sweepers attend to their duties between 9.15 AM and 5.45 PM with a half-an-hour break. The applicant is discharging the identical duties every day between 7 AM to 1 PM. The applicant states that the Hon'ble Supreme Court in a

Judgment reported in 1986(1) SLR p.555, categorically held that the respondents are bound to regularise the services of the incumbents who have put in continuous service of more than six months. She states that she has put in continuous service of more than eight years on a meagre salary of Rs.60/- per month. The applicant made a representation and the same is still pending with the authorities. The applicant states that in as much as she has put in eight years of continuous service, she is entitled to be considered for regular absorption of her services. Denial of the same on par with the regular employees is violative of Articles 14 and 16 of the Constitution of India. Hence, this application.

3. The respondents filed a counter affidavit stating that the applicant was not engaged officially as a part-time Sweeper by them and there is no record proof in their office. The applicant was paid Rs.60/- per month for sweeping upto February 1992 and the same was enhanced to Rs.100/- per month from March 1992. She was hardly attending the office for sweeping and filling the drinking water for one hour only whereas she has mentioned that she attends duty between 7.00 AM to 1.00 PM and some times she works for full time which is false.

4. The respondents state that the Hon'ble Supreme Court's Judgment cited by the applicant is not applicable as she is not a regular employee on N.M.R. for a particular work.

5. The representation of the applicant dated 12.2.1991 was returned back stating that she is not entitled such benefits i.e., equal pay for equal work as per the Hon'ble Supreme Court's Judgment. Therefore, the application is to be dismissed with costs.

6. We have heard the learned counsel for the applicant, Mr. V.Venkateswara Rao and the learned Additional Standing Counsel for the Respondents, Mr. N.V.Ramana. We have also perused the Judgment of the Hon'ble Supreme Court cited by the applicant which was reported in SLR 1986(1) SC 435.

7. During the course of the arguments, the learned counsel for the applicant cited a Judgment of the Central Administrative Tribunal, Ernakulam Bench reported in AISLJ 1992(2) CAT 243 (M.John Rose and another Vs. Head Record Officer, R.M.S., Trivandrum Division), wherein following the Judgment of the Hon'ble Supreme Court cited by the applicant viz., SLR 1986(1) SC 435 (Surinder Singh and another Vs. The Engineer in Chief CPWD and others), it was held that "even part time casual labour in P&T are eligible for temporary status".

8. We find that the applicant has put in considerably long service and she cannot be considered contingent. We find that the applicant is entitled to the benefits contained in the Judgment of the Principal Bench of this Tribunal reported in I(1992) CSJ (CAT) 201 PB. In the Judgment of

the Principal Bench, there is also a reference to the OM dated 8.4.1991 issued by the Department of Personnel & Training with reference to their letter dated 7.6.1988 basing on which the applicant claims regularisation. Based on this, this Bench had also decided a batch of cases vide O.A.No.968/91 and batch on 16.10.1992. Hence, following these Judgments, we give the following directions to the respondents:-

- a) To consider regularisation of the applicant in accordance with what is stated in the Department of Personnel & Training letter dated 7.6.1988 followed by their OM dated 8.4.1991. Such regularisation is to be limited to the extent regular posts are justified.
- b) If the retention of the applicant is in accordance with the guidelines indicated in the letter dated 7.6.1988 of the Department of Personnel & Training, she may be retained as casual worker, and paid at rates indicated therein.
- c) The services of the applicant may be discharged if she is not covered by (a) and (b) above.
- d) The respondents are directed not to induct fresh recruits overlooking the claim of the applicant.

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e) The applicant is entitled to preferential treatment over her juniors for engagement/regularisation.

9. The application is accordingly disposed of with no order as to costs.

R.Balasubramanian

(R. BALASUBRAMANIAN)
Member (Admn.)

urby
(C.J. ROY)
Member (Judl.)

Dated: 29th October, 1992.

8/10/92
Deputy Registrar (J)

To

1. The Secretary to Govt. of India,
Union of India, Dept. of Public Works,
Ministry of Urban Development,
New Delhi.
2. The Chief Executive Engineer,
Hyderabad Central Division No II
Central Public Works Department,
Hyderabad.
3. The Assistant Engineer,
CPWD, Sub-Divn II/1 (Civil) Hyderabad-660
4. One copy to Mr. V. Venkateswar Rao, Advocate, CAT.Hyd.
vsn
5. One copy to Mr. N. V. Ramana, Addl. CGSC. CAT.Hyd.
6. One spare copy.

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6/10/92
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CHECKED BY 1111 APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR

AND

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

AND

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

AND

THE HON'BLE MR.C.J.ROY : MEMBER(JUDL)

Dated: 28 - 10 - 1992

ORDER/JUDGMENT:

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

in

O.A.No. 290/92

T.A.No.

(wp.No)

Admitted and interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A.Ordered/Rejected

No orders as to costs.

pvm

