

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : AT HYDERABAD.

\* \* \*

O.A. 735/93

Dt. of Decision : 25.2.94.

1. Shri P.Yellaiah
2. Shri Shaik Ahammad.
3. Shri Abdul Ghani

.. Applicants.

Vs

1. Union of India repted. by the Secretary to Government, Ministry of Textiles, O/o the Development Commissioner for Handicrafts, West Block, No. 7, R.K.Puram, Udyog Bhavan, New Delhi.
2. The Development Commissioner for Handicrafts, O/o the Development Commissioner (Handicrafts), West Block, No.7, R.R.Puram, New Delhi.
3. The Director (Southern Region) O/o the Development Commissioner for Handicrafts, Sastri Bhavan, 3rd Floor, 26 Haddows Road, Madras - 600 006.
4. The Assistant Director (A&C) O/o the Development Commissioner for Handicrafts, service Centre for Carpet Weaving Training Centre, Ministry of Textiles, Government of India, 31-23-24, Machavaram, Elura Road, Vijayawada.



.. Respondents.

Counsel for the Applicants

: Mr. V. Venkateswara Rao

Counsel for the Respondents

: Mr. N.V. Raghava Reddy  
Addl. CGSC.

CORAM:

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

hesitation in drawing a conclusion that the engagement of the applicants, though termed to be casual, was in fact a kind of temporary employment.

4. As regards <sup>the</sup> respondents' contention that the applicants were paid from funds allocated under the Head of "Wages," I do not find as to how on that very count, the applicants could be denied the benefit of counting their service for the purpose of pension. Whether the individual <sup>a matter</sup> is paid from contingencies or from wages, <sup>is</sup> for the authorities concerned to ~~determine~~ and the individual employee has hardly any say in the matter. What is <sup>fact of</sup> important to bear in mind is the continuous service rendered by each of the applicants from the date of engagement till the date of regularisation. In fact, <sup>there is</sup> nothing on record to show why the applicants could not be engaged on a regular basis at the stage of their initial appointment.

5. In view of the afore stated, the application <sup>are</sup> deserves to be allowed. The respondents <sup>therefore</sup> directed to count 50% of the total service rendered by each of the applicants prior to his regularisation for the purpose of calculating his pensionary benefits. On the revised calculation, whatever pensionary benefits <sup>would</sup> accrued to the applicants shall be paid within a period of 4 months from the date of communication of this order.

but from the funds allocated under the Head "Wages".

3. Heard learned counsel for both the parties.

A careful examination of the appointment letter in respect of each of the applicants would show that they were duly selected and appointed as Assistant Craftsman on a consolidated monthly wages of Rs. 400/-. The letter further goes on to say "that the incumbent will be treated as a Casual Worker". Admittedly, from the date of initial engagement, each of the applicants worked continuously under the respondents' organisation till his services were regularised on 3.10.1985. In State of Haryana Vs V.Piara Singh and others (1992) 4 SCC 118, the Supreme Court observed that if a casual labour is continued for a fairly long spell, say two or three years, a presumption may arise that there is regular need for his service. Placing reliance on the judgement of the Supreme Court in Piara Singh case, the Calcutta Bench of the Tribunal held in Smt. Bhagabati Nayak Vs Union of India 1993 (1) ATJ 429 that the service of a casual employee who served for a long period of time continuously should be treated as temporary service. That was the case were the employee was initially engaged as a Casual Gangman and continued to work for about 14 years. A direction was therefore issued that half the service of the employee should be taken to be qualifying service for payment of family pension. From ~~this~~ <sup>the said</sup> point of view, there should ~~be~~ be no

6. The application is allowed in the above terms without any order as to costs..

CERTIFIED TO BE TRUE COPY  
.....  
Date..... 17/3/94 .....

Copy to:-

1. Secretary to Government, Ministry of Textiles, Union of India, O/O Development Commissioner for Handicrafts, West Block, No.7 R.K.Puram, Udyog Bhavan, New Delhi.
2. The Development Commissioner for Handicrafts, O/O Development Commissioner (Handicrafts), West Block No.7, R.K.Puram, New Delhi.
3. The Director (Southern Region) O/O Development Commissioner for Handicrafts, Shastri Bhavan, 3rd floor, 26 Haddows road, Madras-006.
4. The Assistant Director (A&C), O/O Development Commissioner for Handicrafts, Service centre for Carpet Weaving Training Centre, Ministry of Textiles, Government of India, 31-28-24, Machavaram, Eluru road, Vijayawada.
5. One copy to Sri. V.Venkateshwara Rao, advocate, CA, Hyd.
6. One copy to Sri. N.V.Raghava Reddy, Addl. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-

~~CCS Name~~  
~~CCS of Phrases~~  
~~CCS Name (1)~~