

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

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Original Application No.576/1995

Dt. of decision: 18-9-96

Between:

1. Shaik Seenu Basha,
s/o Maulali, 28 years.
2. M. Rajyam, (Metla),
w/o Polaiah, 39 years.
3. Srungarapu Rajalu,
w/o Parneshwar Rao, 38 years.
4. Kanna Veeranjaneeyulu,
s/o Peda Appa Rao, 28 years.
5. Smt. Avula Leela,
w/o Somulu, 38 years.
6. Gunajala Navaneetham,
w/o Narsimham, 42 years.
7. Patela Srinivasa Rao,
s/o Venkatramaiah, 30 years.
8. Metla Venkayamma,
w/o Aggiramulu, 40 years.
9. Chennamchetty Sarojini,
w/o aged 36 years.
10. Shaik Peer Bi,
w/o Moulali, 40 years.
11. Midyam Narayanamma,
w/o Hanumaiah, 40 years.
12. Sunkara Satyavathi,
w/o Kotiah, 40 years.
13. Gajula Basavapunamma,
w/o Lakshmaiah, 47 years.
14. Samaroutu Annikamma,
w/o Hanumantha Rao, 50 years.
15. Amalothu Bapamma,
w/o Bhaskar Rao, 45 years.
16. Chetty Koteswaramma,
w/o Chinna Venkateswarlu, 37 years.
17. Gera Devamma,
w/o Dhara, 35 years.
18. Akula Vijaya Lakshmi,
w/o Radha Krishna Murthy, 37 years.
19. Kondru Narasamma,
w/o Davood, 42 years.
20. Manchala Koteswar Rao,
s/o Venkateswarlu, 27 years.

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21. Chimata Yedukondalu,
s/o Ramulu, 30 years.
22. Palam Samrajyan,
w/o Venkateshwarlu, 45 years.
23. Kanna Niva Koteswar Rao,
s/o Radha Krishna Murthy, 27 years.
24. Talampati Shankar Rao,
s/o Peraiiah, 40 years.

(All the above Applicants are presently working as Casual Labours in Central Tobacco Research Institute, Research Station, Guntur).

.. APPLICANTS

A n d

1. The Director General,
Indian Council of Agricultural
Research (ICAR), ~~Krishna~~
Krishi Bhavan, New Delhi-110 001.
2. The Director,
Central Tobacco Research Institute,
Torredu Road, Rajahmundry,
East Godavari Dist., A.P.
3. Senior Administrative Officer,
Central Tobacco Research Institute,
Torredu Road, Rajahmundry,
East Godavari Dist., A.P.
4. The Special Officer and
Officer Incharge,
Central Tobacco Research Institute &
Research Station, Market Yard,
Guntur-1, A.P.

.. RESPONDENTS

Counsel for the Applicants: Shri G.Vidyasagar.

Counsel for the Respondents: V.BHIMANNA, Additional
Standing counsel for
Respondents.

CORAM: HON'BLE SRI JUSTICE M.G.

CHAUDHARI, VICE-CHAIRMAN.

HON'BLE SHRI H.RAJENDRA PRASAD.

O R D E R

(PER HON'BLE SHRI R.RAJENDRA PRASAD, MEMBER (A) *[Signature]* 7/14)

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The applicants, 24 in number, are casual labourers in the Central Tobacco Research Institute's farm at Guntur. Their grievance is that, despite their having been engaged continuously for a long time, ranging between 10 to 20 years, temporary status has not been conferred on them, nor have

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any steps been taken to regularise their services.

2. The applicants assert that they are engaged on regular basis in works of perennial nature and are also covered by EPF Scheme of 1952. They argue further that they are entitled to Group "D" status and the minimum pay scales of Group "D" officials. It is also complained that some of the 26 casual labourers regularised by the Institute are junior to them while their own claims have been ignored. The applicants state that they duly submitted representations to the Institute Authorities, besides approaching the Assistant Labour Commissioner, in the matter but could not secure any relief. In the meanwhile they have crossed the age of eligibility for any other employment and indeed have no avenues of alternate employment any more at the present stage. In support of their pleas, it is stated that the payment of their wages is being made through cheques payable to only some single person merely in order to deprive and deny them the benefit of regularisation, despite the fact that various other works such as entomology, grading of tobacco, plantation, cotton-research, are available throughout the year.

3. On the basis of above facts as projected by them the applicants pray for a direction to be issued to the Respondents to accord them temporary status from 1986, and to regularise their services on par with 26 others who were so regularised earlier. They also seek the quashing of

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CTRI RAJAHMUNDRY Circular No.F.1(44)94-Adm.I dated 15-3-1995 containing instructions to stop engagement of daily-waged seasonal casual labourers during summers for periods in excess of 3 months with effect from 1-4-1995.

4. In view of an apprehension expressed by the applicants that the Respondents might well disengage them in the summer season during the pendency of the case, the following interim directions were issued by this Tribunal on 2-5-1995 and 15-3-1996 as under:

" 2.5.1995: If it is necessary to engage Casual Labour in the CTRI and Research Station, Guntur, of which Respondent No.4 is the Special Officer and Officer-in-charge during the Summer season of three months which commenced from 1-4-1995, the applicants have to be preferred instead of the freshers."

"15-3-1996: In the circumstances of the case and as the O.A., is pending, we are satisfied that an interim direction in same terms as was issued on 2-5-1995 which is quoted above should be issued with the change that date mentioned therein as from 1-4-1995 will be read as 15-3-1996 and with the rider that the appointments may be made in accordance with the seniority of all the Casual Labourers on Muster rolls."

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5. These directions continue to operate since they have not been withdrawn or modified.

6. The Respondents in their counter-affidavit submit that their outfit at Guntur is just an affiliate or a branch of the main Institute at Rajahmundry and comprises only 20 hectares of farm-land where tobacco is grown on experimental basis for purposes of research. Tobacco is a rabi crop and its cultivation extends roughly from mid-October to mid-March every year. The main activity of the Institute revolves around tobacco and its cultivation. Nothing else is grown except some minor produce cultivated as rotation crops during the same season as that of tobacco. For all works requiring technical knowhow such as entomological tasks, tobacco-grading and other related activities requiring skilled labour, the Institute has on its rolls separate permanent staff. The applicants are unskilled, casual seasonal workers, who are engaged every year for routine farm operations during the months when work is available. They emphasise that the applicants were not engaged for any number of 'years' but only for those many "seasons". It is just not possible for the Institute to continue to engage the applicants throughout the year, specially during the summer months, when the work of crop-growing on the farm ceases almost completely.

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7. It is explained that the applicants are duly paid at the rates of daily wage labour fixed by the State or Central Government, whichever happens to be higher. As regards the allegation of the applicants that the Institute resorts to cheque-payment solely with a view to denying them the privilege of temporary status and regularisation of service, it is explained that cheque payment is resorted to only in situations when works of miscellaneous nature, not in any way connected to the main activity of the Institute, are get done through a contractor as piece-work or job-work. Such payments have no link with the applicants nor their claims or presumed rights. It is revealed that a conciliation meeting convened by the Assistant Labour Commissioner, Vijayawada, was held on 28-3-1955 which was duly attended, among others, by two nominated representatives of the applicants (including applicant No.1 in this O.A). It is not correct to say, as the applicants mention in their application, that no action was taken by the Assistant Labour Commissioner. A copy of the Memorandum of understanding has been submitted by the Respondents which reveals that, at the meeting convened on 28-3-1955 by the Assistant Labour Commissioner(C), Vijayawada, under the provisions of Sec.12(3) of the Industrial Disputes Act, two terms of settlement were worked out after hearing the representatives of the Management and Workmen. The second of these terms reads as follows:

"The Management has also agreed to provide employment in future depending upon man-power requirement under various Research Projects/ Adhoc Schemes as per the seniority list".

This document would go to show that the matter of the continued employment of the applicants, though not actually of their regularisation, did receive full consideration. To this extent the contention of the applicant that ~~no~~

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action was taken by the Assistant Commissioner on this aspect is found to be incorrect.

8. The Respondents are at great pains to point out that the regularisation of casual labourers in their organisation is executed strictly in terms of the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, promulgated by Government of India on 10-9-1993. There is only criterion for granting temporary status to casual labourers and that is a continuous service of at least 240 days in one year. Casual-labourers so accorded temporary status shall have to be absorbed, subject to eligibility and other relevant conditions, in order of their seniority, which is reckoned in terms of the dates of their initial engagement. Thus it is seen that the element of seniority comes into play only after the grant of temporary status to casual labourers when the question of regularisation of services is taken up and not for the purpose granting temporary status itself, which is regulated by different considerations.

9. The Respondents say that they have duly conferred temporary status on all casual labourers who fulfilled the conditions implicit in the said Scheme. As for the present applicants, the Respondents have produced data to indicate that none fulfils the basic condition of continuous service of 240 days in a year. That being so, the applicants

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cannot have any right to press for either temporary status, much less for parity with Group "D" officials, and even less for regularisation of their services.

10. Sometime in the year, 1993 the Department of Personnel, Public Grievances and Pensions, Government of India, issued instructions to the effect that no casual labourer should be engaged during summer for periods exceeding three months. These instructions were applicable to all the Ministries, Departments and Offices of Government of India, besides ICAR which is the controlling body of the Central Tobacco Research Institute (Respondent No.1 in the present O.A.) This prohibition had apparently become necessary since the Government felt that casual labourers were being indiscriminately engaged in various establishments far excess of the actual requirements leading to subsequent pressures and demands for their regularisation. This instruction, which by itself is clear and unambiguous, happens also to coincide with the operational necessities of CTRI, Rajahmundry/Guntur, inasmuch as Tobacco crop is not grown during summer months, as explained by the Respondents. In the circumstances, it became doubly necessary for the Respondent Institute to dispense with the services of such of the casual labourers whose services were not strictly needed during the off-season. The result of all this was that the applicants are not really casual labourers

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in the normal sense but are treated as casual labourers of seasonal nature, to be employed during certain parts of the year. This in turn, has evidently resulted in their not being eligible for temporary status/regularisation for want of requisite minimum period of engagement during a particular year.

11. In view of the position which has been unambiguously brought about above, it is not possible to acceded to the request of the applicants in this O.A., or to grant the reliefs prayed for by them. It is not found possible to issue any direction to the Respondents either to grant temporary status or to regularise the service of the applicants or to equate them to Group "D" Officials. The Circular No. F1(44/94-Adm-I) dated 15-3-1995 contains nothing objectionable inasmuch as it only reiterates the Government of India's instructions regarding the engagement of daily wages ~~consisting~~ casual labourers during summer seasons. The instructions are based on other reasons which ^{are} perfectly valid and not discriminatory against any one in particular.

12. Sri K.K.Chakravorthy, learned counsel for the applicants cited the decisions in STATE OF HARYANA AND OTHERS Vs. PIARA SINGH AND OTHERS reported in 1992 (4)SLR. 770, NATIONAL FEDERATION OF RAILWAY PORTERS VENDORS & BEARERS Vs. UNION OF INDIA AND OTHERS reported in A.I.R.1995 S.C.1617 STATE OF U.P & OTHERS Vs. U.P.MADHYAMIK SHIKSHA PARISHAD

SHRAMIK SINGH & ANOTHER reported in 1995(6)Scale 434 and STATE OF HIMACHEL PRADESH vs. ASHWANI KUMAR reported in 1966 SCC (L&S) 434. On a careful scrutiny of the cases cited, it is seen that the applicants cannot draw any support from any of these cases.

13. In the case of STATE OF HARYANA AND OTHERS Vs. PAIARA SINGH AND OTHERS (1992(4)SLR.770) the Hon'ble ^{any} Supreme Court, far from approving ~~the~~ wholesale directions for regularisation of services of adhoc employees in disregard of rules and instructions issued by the Government, actually deprecated a tendency to issue such orders wholesale, and more importantly, in violation of rules. The Supreme Court also indicated the outer limits of possible judicial interference in such cases. It was pointed out that where the rules and instructions on the subject are fair, equitable and non-discriminatory, it would be wholly impermissible to direct the infringement of these ~~very~~ rules by ordering reliefs to unentitled persons in the matter like pay-parity or equal pay for equal work regularisation. It is not clear as to what exactly the applicants seek to derive by way of support from this important judgment.

14. Similarly the case concerning the NATIONAL FEDERATION OF RAILWAY PORTERS, VENDORS AND BEARERS Vs. UNION OF INDIA AND OTHERS (A.I R.1995 S.C.1617), the entire dispute was between contract labourers who had

continuously worked for a number of years on tasks of permanent and perennial nature which could keep all petitioners continuously engaged. Certain orders were passed in the said case on the basis of these basic facts. None of those facts are applicable to the instant case since the present applicants are neither contract labourers nor have they been working continuously for several years nor, as has been brought out, can the work they are employed in during a particular part of the year ^{be} adequate to keep them constantly engaged throughout the year.

15. Similar is the case in STATE OF HIMACHAL PRADESH Vs. ASHWANI KUMAR (1966 SCC(L&S) 383. In this case the Hon'ble Supreme Court in fact opined pointedly that the services of daily wagers can be terminated when no longer required, or when a scheme comes to closure, or where no work is available. The Apex Court observed as under:

"No vested right is created in temporary employment. Directions cannot be given to regularise their services in the absence of existing vacancies nor can directions be given to create posts by the State to a non-existent establishment. The Court would adopt pragmatic approach in giving directions.

The directions would ~~not~~ amount to creating of posts and continuing them in spite of non-availability of the work."

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On the basis of this logic, the orders earlier passed by Himachel Pradesh High Court, which was carried in Civil Appeal to the Supreme Court, were set aside.

16. Finally in the case of UTTAR PRADESH vs. U.P.

MADHYAMIK SHIKSHA PARISHAD (1995(6)Scale 434) the Hon'ble Supreme Court had the following observations to make:

"It is an administrative procedure that creation of a post is a condition for filling up the post on permanent basis. The exigencies of the administration and the need for the creation of number of posts are matters of executive policy by the appropriate Government

Unless the posts are created, they are not entitled to be fitted into any regular post. The performance of the manual duty may be like the duty of regular class IV employees. However, they are not entitled for the payment of equal wages so long as there are no posts created in that behalf. We can understand that if there are vacant posts available in Class IV and they are filled up by appointing them to these posts on daily wages performing the same duties of regular employees, perhaps there may be justification for issuing directions for regularisation of their services according to rules and payment of the salary to the post to which they are fitted. But in view of the fact that no posts are created or

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existing, we cannot uphold the direction issued by the High Court to pay equal wages or to regularise their services."

17. Thus it is seen that none of the cases cited by the learned counsel for the applicants would really come to the aid of the applicants in the instant case.

18. To sum up, the applicants, being seasonal labourers, engaged on non-perennial work during parts of an year, and not thereby having rendered the minimum service to become entitled for temporary status/regularisation as specified in the relevant Scheme,--cannot now claim the reliefs prayed for. No directions can be given to the Respondent-Institute in this regard ^{for} regularisation of the services of the applicants.

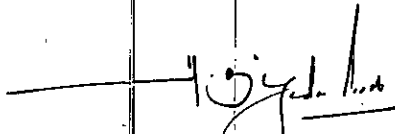
19. Considering the long spells of seasonal labour rendered by the applicants, it is, however, directed that they shall continue to be so engaged as long as their services are required during the successive seasons, whenever such work is available. If at any stage, the applicants become eligible to be considered for temporary status/regularisation etc., in the normal course, as per the provisions of the relevant scheme/schemes, there is no doubt that the respondent-institute shall initiate necessary action at the appropriate time. It is also directed that no fresh candidates from any other source shall

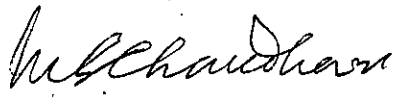
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be engaged for seasonal labour work, as long as the services of the present applicants are offered or available for utilisation in any existing items of work on the farm, as in the past.


20. With these directions, the O.A., is disposed of.
No order as to costs.


H. RAJENDRA PRASAD,
MEMBER (A)
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M.G. CHAUDHARI, J
VICE-CHAIRMAN

Date: 18th Sept 1996

Pronounced in open Court.


Deputy Registrar (DCC).

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 18-9-1996

~~ORDER~~ / JUDGMENT

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

in

O.A. No. 576/95

T.A. No.

(w.p.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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