

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

CAs 1635/98, 112, 125, 154, 167, 302, 317, 313, 326, 440, 441,
442, 480, 527, 529, 530, 531, 554, 635, 424, 639, 640 and 649 of 1999

DATE OF ORDER : 29th April, 1999

CA 1635/98

1. K. Narsing Rao
2. C.M. Singh
3. A. Srinivas

4. M.A. Sattar
5. D. Balraj
6. S.C. Ramulu

... Applicants

And

Union of India rep. by:

1. The Director General, Dept of posts New delhi-110001.
2. The Chief Postmaster General, AP, Circle, Hyderabad-500001.
3. The Sr. Superintendent of post offices, Hyderabad City
Division, Hyderabad-1.

... Respondents.

CA. 112/99

Between:

1. G. Suresh
2. S. Satyanarayana
3. K. Narsing Rao
4. K. Choji Reddy
5. P. Raju
6. T. Yadagiri

7. S. Balaraju
8. E. Vinod Kumar
9. Kishore Kumar
10. Md. Zaminuddin
11. M. Kamalamma
12. Prabhu

... Applicants

And

Union of India rep. by:

1. The Director General, Dept of Posts New delhi-110001.
2. The Chief post Master General, AP, Circle, Hyderabad-500001.
3. The Sr. Manager, Mail Motor Service, Koti, Hyderabad-500195.

... Respondents

Contd....2.



GA. NO. 125/99

1. B. Suryanarayana
2. N. Murali
3. G. Ramakrishna
4. V. Venkata Raju
5. Jani Appanna
6. K. Satyanarayana
7. I. K. Ahmed
8. N. Plolanna
9. I. Venkatarao
10. K. Krishna Murthy
11. N. Suribabu
12. Ch. Krishna
13. A. Rahaman

14. A. Achyamma
15. N. Appayamma
16. J. Kasulamma
17. S. Macheswari
18. D. Sankararao
19. A. Edusaramma
20. S. Lakshmi
21. I. Kanakarao
22. P. Appayamma
23. D. Suramma
24. G. Sanyasi Rao
25. S. Lakshmi

...Applicants

And

Union of India rep. by

1. The Director General, Dept of posts, New delhi-110001.
2. The Chief postmaster General, AP, Circle, Hyderabad-500001.
3. Postmaster General, Visakhapatnam Region, Visakhapatnam.
4. Superintendent of post office, visakhapatnam, postal division Visakhapatnam.

...Respondents

GA. NO. 154/99

Y. Narasiah

.. Applicant

And

1. Union of India rep. by

Director General, Dept of posts, Sansad Marg, New delhi-1.

2. The Chief postmaster General, AP. Circle, Daksadan, Abids Hyderabad.

3. The postmaster General, AP, Southern Region Kurnool.

4. The supdt of post offices, Cuddapah division Cuddapah.

5. The postmaster, Cuddapah, HPD, 516001, AP.

...Respondents

GA. NO. 167/99

1. Pampana Appalaraju
2. Bandi Kanaka Rao
3. Vada Appayamma
4. Matha Nagaswar Rao
5. Janaswamy Akambaram
6. B. Venkatarao
7. Patikili Rama Rao
8. Lopinti Ramagandan

14. Baggam Sarveswararao
15. K. M. Shariff
16. Patripilli Chinnappa
17. Satyanarayana
18. M. Appala Krishna Murthy
19. Durada Rangadhar Rao
20. Uttada Ratna Kumari

Contd.....

9. Pothala Sanyasi Rao
10. Maccala Janardhan Rao
11. Poshineta Satyanarayana
12. Yerra Venkateswarara
13. Baliwada Mahaka Rao

20. Grandhi Shimeshwara Rao
21. Dunga Shankar Rao
22. Donam Kishore Babu
23. Kanaparti Venkara Suri Babu
24. Smt. S.K. Khatijabi
25. M.D. Naseem Basha

....Applicants

And

Union of India rep. by-

1. Director General, Dept of Posts, New delhi
2. Chief Postmaster General, AP, Circle, Hyderabad.
3. Postmaster General Visakhapatnam Region, Visakhapatnam.
4. Superintendent MNS; MNS 'V' Division, Visakhapatnam.

...Respondents

Sl. No. 302/99

1. S. Mahaboob Basha
2. Smt. Y. Sugunamma
5. Gali Ankaiah
7. S. Akthar Basha
9. Jammi Nagamma
11. Y. Subbaraju
13. Smt. S. Sasheeran

2. Y. Venkatesu
4. G. Hari Krishna
6. Smt. Gali Ramulamma
8. Jamma Subbamma
10. GV. Narasiah
12. Melaturu Venkataiah
14. T. Siddamma

..Applicants

And

Union of India rep. by

1. Director General, Dept of posts, New delhi-110001.
2. Chief postmaster General, AP, Postal Circle, Hyderabad.
3. Postmaster General, Kurnool Region, Kurnool-510005.
4. Superintendent of Post Office, Cuddapah Postal Division, Cuddapah-1.

...Respondents.

Sl. No. 317/99

Between:

1. G. Nagaraju
2. A. Venkatalaxamma
3. Sunkalamma
4. G. Aswarthappa

5. G. Krishna Murthy
6. P. Sudhakar
7. Smt. D. Mastanamma
8. D. Ramanjaneyulu

...Applicants

And

1. Union of India, rep. by
Director General Dept of posts Dak Bhavan Sansad Margh, New delhi.
2. The Chief postmaster General, AP, Circle, Dakshana, Abida, Hyderabad.
3. The Superintendent Railway Mail Service, AG, Division, Guntakal.

...Respondents.

Contd.....2.

GA. 313/39

Between:

1. Katta Eswaraiah
2. C. Ragaiah
3. Smt. P. Lakshamma

...Applicant

And

1. Union of India rep. by
Director General, Dept of posts, Dak Bhavan Sangadamarg, New delhi.
2. The Chief postmaster General, AP, Circle, Dak Sadan, Abids, Hyderabad.
3. The Superintendent of post offices, Gudur Division, Gudur (ML)
4. The Postmaster, Head post office, Gudur (ML)

....Respondents

GA. 326/99

1. J. Gopikrishna
2. C. Jayachandra
3. K. Sankar Babu
4. Smt. S. Chen Begum
5. S. Mahabob
6. C. Ramamma
7. P. Ramaiah
8. V. Eswaramma
9. V. Chengalarayulu
10. M. Gnanamma
11. E. Govindamma
12. A. Subrahmanyam
13. A. Suguna
14. K. Parumal
15. M. Subrahmanyam
16. T. Subbamma
17. R. Vedavathi
18. S. Rajanna
19. K. Rajamma
20. G. Adamma
21. B. Kallamma
22. A. K. Somathi

23. S. Neelamma
24. K. Gnanamma
25. K. Doraswamy
26. K. Madhu
27. K. Krishna
28. M. Rangaswamy
29. T. Hemadri
30. A. Chengalarayulu
31. P. Sumathi
32. K. V. Sasubhama
33. K. Venkataiah
34. K. Yellamma
35. P. Godan Khan
36. S. Jabun Beg
37. S. Fathima Begum
38. T. Venkateswarlu
39. G. Subrahmanyam
40. H. Chandamma
41. G. Mallika
42. K. Vijayalakshmi
43. C. Sarojamma
44. K. Kumari

...Applicants

And

1. Union of India, rep. by The Director General, dept of posts
Dak Bhavan, New delhi-110001.
2. The Chief postmaster General AP, Circle, Dak Sadan, Hyderabad-500031.
3. The Postmaster General Kurnool Region, Kurnool, Ashoknagar-510005.
4. The Superintendent of post offices, Tirupati Division, Tirupati
Chittoor (DIST) AP.-517501.

....Respondents.

Contd... 5.

GA. NO. 440/99

Between:-

- | | |
|-------------------|----------------------|
| 1. D. Edukondalu | 8. K. Yeladiah |
| 2. D. Baji | 9. Kancharla Subbana |
| 3. Shaik Karimbi | 10. T. Lalitha |
| 4. M. Subbamma | 11. Bibi Asha |
| 5. R. Chakri | 12. Syed Ali |
| 6. R. Lakshmanudu | 13. M. Savitri |
| 7. G. Basavaiah | ... Applicants |

And

1. The Union of India rep. by the Director General, Dept of posts New delhi-110001.
 2. The Chief Postmaster General, AP Circle, Hyderabad-500001.
 3. The Superintendent of post offices, Tenali Division, Tenali.
 4. The postmaster, Tenali, H.O.
- ... Respondents

GA. 441/99

Between:-

- | | |
|---------------------------|--------------------------------|
| 1. J. Madhava Rao | 6. Smt. Chakka Govardhana Mani |
| 2. Chikili Moulali | 7. Manikala Ankulu |
| 3. Gulam Ali | 8. Paeta Krishanjaneyulu |
| 4. Smt. Meda Mancharamma | 9. Veligapadu Venkateswararao |
| 5. Smt. Chinta Rambayamma | ... Applicants |

And

1. The Union of India rep. by Director General, Dept of posts, New delhi-110001.
 2. The Chief postmaster General, AP Circle, Hyderabad-1.
 3. The Superintendent of post offices, Machilipatnam Division Machilipatnam.
 4. The postmaster, Machilipatnam, H.O.
- ... Respondents

GA. NO. 442/99

- | | |
|-----------------------|---------------------------|
| 1. B. Babu Rao | 9. Smt. Pilla Ramalakshmi |
| 2. D. Sanjevarao | 10. Smt. D. Ramanamma |
| 3. M. Ramarao | 11. Smt. M. Ranganamma |
| 4. M. R. Mohana Rao | 12. Smt. S. Ramanamma |
| 5. T. Durgarao | 13. Smt. T. Mastanamma |
| 6. CH. Satyanarayana | 14. R. Sambasiva Rao |
| 7. Smt. G. Padmavathi | 15. Smt. G. Appalamma |
| 8. N. Jaya Rao | 16. Smt. D. Kondamma |
- ... Applicants

And

Contd...6.

1. Director General, Dept. of Posts, Govt. of India, New Delhi.
2. Chief Postmaster General, Ap, Postal Circle, Vijayawada.
3. Postmaster General, Vijayawada Postal Region Vijayawada.
4. Sr. Superintendent of Post Offices, Vijayawada Postal Division Vijayawada.

... Respondents

Sl. No. 480/99

Between:-

- | | |
|--|----------------------------|
| 1. S. Anjaiah | 17. S.F. Theodor |
| 2. G.S. Sastry | 18. MD. Nazam |
| 3. C. Srinivas | 19. Rajender Singh |
| 4. Hameed Khan | 20. H. Narendra Kumar |
| 5. Ma. Jawad | 21. S. Dal Reddy |
| 6. K. Kameswaram | 22. T. Nagesh |
| 7. Meer Huzaffar Ali | 23. H. Bikshapathy |
| 8. Md. Khaleeluddin s/o Mr. Jamaluddin | 24. D. Mohan Reddy |
| 9. Md. Khaleeluddin | 25. G. Anilkumar |
| 10. Md. Ayaz | 26. S.S. Reddy |
| 11. A.R. N. Rao | 27. K. Gopal Rao |
| 12. Ahmed Jaleelani | 28. D. Raghavulu |
| 13. S.A. Khan | 29. Md. Yousuf |
| 14. S.A. Hussain | 30. Smt. B. Jalamma |
| 15. K. Mohan Rao | 31. D. Ramaswamy |
| 16. KS. Ali Khan | 32. V. Radhakrishna |
| 33. Md. Amjadullah Khan | 76. S. Prabhakar |
| 34. Gulam Ahmad | 77. Smt. Jangamma |
| 35. S.M. Quarishi | 78. Md. Hyder Shareef |
| 36. Md. Salim Pasha | 79. Md. Hameed Khan |
| 37. M. Eswarajah | 80. Smt. Rasool Khatoon |
| 38. D. Ramaswamy | 111. A. Aziz |
| 39. Md. Sharfuddin | 82. M. Srinivasa Rao |
| 40. M. Nagaswaram | 83. Md. Hassan Ali |
| 41. Tummendar | 84. K. Nehruji |
| 42. K. Hameed | 85. Laxamma |
| 43. M. Kumar | 86. S.K. Salim |
| 44. Smt. T. Yashodamma | 87. V.Y. daiah |
| 45. S.H. Krishna | 88. Md. Sadiq Ali |
| 46. Smt. Shanta Bai | 89. MS. Lingam |
| 47. MC. Prakesh | 90. V. Nagesh |
| 48. Sanjaygiri | 91. Smt. M. Ramanujamma |
| 49. M. Aziz | 92. T.L. Rao |
| 50. V. Rajanna | 93. Smt. S. Saraswathi Bai |
| 51. K. Krishna | 94. R.A. Reddy |
| 52. T. Vinod Kumar | 95. Mohd. Zaher |
| 53. S. Appala Naidu | 96. A. Lingam |
| 54. S. Kamala Bai | 97. S. Shivakumar |
| 55. C. Dass | 98. Mohd. Afzal |
| 56. Smt. Jamuna | 99. R. Srinivas |
| 57. Suresh Babu | 100. S.S. Raju |
| 58. S. Trilok Singh | 101. VS. Reddy |
| 59. A. Naysam | 102. Smt. Tarabai |
| 60. Smt. Savithry | 103. Smt. Gangubai |
| 61. Smt. Rajamma | 104. M. Srinivas |
| 62. Syed Zakiuddin | 105. Smt. Padamma |
| 63. Mohd. Ayub Khan | 106. Smt. Renuka |

Contd...7.

27. Similar views were expressed by the Supreme Court in *Direndra Chandel and another V. State of Uttar Pradesh* (AIR 1986 SC 172) that the casual employees who were in the service of the different Nehru Yuvak Kendras in the country and who were admittedly performing the same duties as class IV employees, must, therefore, get the same ~~xx~~ salary and condition of service as Class IV employees and it made no difference whether they were appointed in sanctioned posts or not. So long as they were performing the same duties, they must receive the same salary and conditions of service as class IV employees.

28. There is, therefore, no reason why on the application of the principle that 'equal pay should be paid for equal work' the present applicants before us be deprived of the same benefit in terms of pay/wages as well as in terms of the date from which the same could be made effective. There could, therefore, be no constraint on directing the Department to refrain from making any recoveries from the pay and allowances received by the applicants on the ground of excess payment 'wrongly' made prior to 3.11.1993.

29. It may be argued that the Administrative Tribunal should ordinarily desist from giving such directions which may involve heavy financial commitments and implications. However, it would not be correct to say so in the context of the present OAs because the recurring liability of paying wages on pro-rata basis according to the recommendations of the 6th pay Commission has already been incurred by the Department by holding that the casual labourers are entitled to enhancement. The only point which had been hanging fire was relating to the effective date. Initially the department said that the effective date should be 1.11.1997 and subsequently the respondents raised a contention that the same was erroneous and directed not only that the effective date should be considered from 3.11.1998 but also that any excess payment received by the applicants on that account should be recovered from their wages. We have already dealt with this aspect earlier in this judgment.

Contd....24.

What we are trying to emphasize is that our order would only be limited to giving the effective date as 1.1.1996 which would involve only one time payment of the difference and therefore, we believe that we are not exceeding our jurisdiction in passing the instant order.

25. The present cases are, therefore, disposed of with the following directions:-

- (a) The office Memorandum No.1-3/97-PAP dated 3-11-1998 determining the date of applicability to be 3.11.1998 as well as another office letter No.1ST/1-60/PCC/97-98/Corr dated 26.11.1998 directing recoveries to be made from the wages of the present applicants are hereby quashed.
- (b) The respondents are directed to give the applicants the minimum of the pay scale corresponding to regular Group 'D' employees in the revised pay scale on pro-rata basis with effect from 1.1.1996.

No order as to costs.

Sd/-xxxx

Section Officer.

प्रमाणित प्रति
CERTIFIED TRUE COPY

कम संख्या

CASE NUMBER

निवेदन संख्या

DATE OF RECEIPT

प्रतिता

COPY MADE BY

0A1685/98 & batch

29.4.99

22.6.99

[Signature]

Section Officer

Section Officer

Section Officer

Central Administrative Tribunal

हैदराबाद बेंच

HYDERABAD BENCH.

- | | |
|-------------------------|------------------------|
| 64. SA. Khadar | 107. Smt. Ameena Beg |
| 65. A. Victor | 108. D. Harasing Rao |
| 66. A. Razzak | 109. Smt. R. Rulamma |
| 67. Smt. J. Chandamma | 110. H. Naser Ali Khan |
| 68. S. Gumar Abbas | 111. Md. M. Farooqui |
| 69. G. Jossaf | 112. S. Ravikumar |
| 70. Smt. T. Varalakshmi | 113. Md. Saleem |
| 71. Smt. G. Varalakshmi | 114. Md. Younus Saleem |
| 72. Sujju Singh | 115. K. Mohan Rao |
| 73. I. Padhakrishna | 116. M. Srinivas |
| 74. Smt. T. Gunavathi | 117. Md. Fareed Ahmed |
| 75. Md. Taqi Baig | 118. M. Vinod Kumar |
| | 119. M. M. Nagash |
| 120. MA. Khadar | 132. G. H. Yadagiri |
| 121. K. Chandra Mohan | 133. G. N. Rao |
| 122. Md. Jahangir Ali | 134. S. Shivekumar |
| 123. Smt. C. Narasanna | 135. I. P. M. Dhar |
| 124. Smt. Santosh Bai | 136. K. Yadava Rao |
| 125. Smt. P. Kamalamma | 137. B. S. Raju |
| 126. K. Ratna Chary | 138. A. C. Kumar |
| 127. K. Madhukar | 139. V. Raju |
| 128. C. Swamy | 140. P. Sathiah |
| 129. Md. Khan | |
| 130. S. Mallesh | |
| 131. CN. Naidu | |

...Applicants

And

1. Union of India, rep. by
Director General, Dept of posts, New delhi-110001.
2. The Chief Postmaster General, Andhra pradesh Circle, Hyderabad-1.
3. The senior superintendent of Railway Mail Service, Hyderabad
Sorting Division, Hyderabad-500027.

...Respondents

CA. 527/99

- | | |
|-----------------------|----------------------------|
| 1. B. Krishnamachari | 18. M. Rangarao |
| 2. A. Subbarao | 19. N. Nageswararao |
| 3. S. Baburao | 20. KA. Narasamma |
| 4. M. Gopal rao | 21. Shaik Fatima Beg (Kum) |
| 5. Qursheed Baig | 22. Roshan Wadai |
| 6. M. Ganesh | 23. M. Srinivas |
| 7. K. Ramesh | 24. V. Venkatarao |
| 8. A. Vasantha Rao | 25. M. Jayamma |
| 9. B. Saradich | 26. B. Kellappa |
| 10. B. Venkatarao | 27. M. Ashok Kumar |
| 11. A. Luxman | 28. RA. Luxmi (Smt) |
| 12. M. Fayaz Baig | 29. P. Venkatesh |
| 13. S. Devender | 30. Laxmi Bai (Smt) |
| 14. K. Ravindra Chary | 31. D. Shashikala (Kum) |
| 15. TV. Swamy | |
| 16. Shaik Dadamiya | |
| 17. S. Appachary | |

...Applicant

Versus

...Contd....B.

1. Union of India rep.by
Director General, Dept of Posts New delhi.
2. The Chief Postmaster General, AP, Circle, Hyderabad.
3. The Postmaster General, Hyderabad Region, Dak Sadan, Hyderabad.
4. The Superintendent, Railway Mail Service (RMS for short)
"Z" Division, Tilak Rd, Hyderabad-1.

....Respondents

DA.529/99

- | | |
|--------------------------------|------------------------------|
| 1. Kandukuru Ramarao | 20. Gude Satyavathi |
| 2. Komaragiri Ananthakrishna | 21. Vangabanda Atchayamma |
| 3. Bacarla Laxmi | 22. Valluru Durgamma |
| 4. Thundurru Bhaskararao | 23. Shaik Asha Beg |
| 5. Pesarlanka Samudra | 24. Kaila Rajamma |
| 6. Bellapukonda Gangamma | 25. Bajantri Nagamani |
| 7. Balasani Samrajyam | 26. Bajantri Veeramma |
| 8. Pilli pitchi Reddy | 27. Guduguntla Radha Krishna |
| 9. Jipapati Vijayalakshmi | 28. Chintla Mahalakshmi |
| 10. Chittipalli Bhagyam | 29. Keesara Manikyam |
| 11. Veligotla Appala, Prasanna | 30. Kammampati Narasamma |
| 12. J. Simha Chalam | 31. Param Kotamma |
| 13. T. Parvati | 32. R. Shanmugam |
| 14. CH. Mohanrao | 33. Ch. Venkateswararao |
| 15. B. Yellarao | 34. K. Arunakumar |
| 16. Shaik Mohabeob Dasha | 35. V. Narasamma |
| 17. Yerramsetty Sambabu | 36. Rebhanna |
| 18. Permalu Venkanna | 37. VR. Mohanakrishna |
| 19. Kondapalli Konakanna | |

....Applicants

And

1. The Union of India rep.by the Director General Dept, of Posts
Dak Bhavan, New delhi. 110001.
2. The Chief Postmaster General, AP, Circle, Hyderabad-1.
3. The Postmaster General, Vijayawada Region, Vijayawada-520002.
4. The Sr. Superintendent of post office, Vijayawada Division
Vijayawada-520001.
5. The Sr. Postmaster, Vijayawada, H.C. 522001.
6. The Postmaster, Buckinghampet, R.C. Vijayawada 520002.
7. The Sr. Medical Officer-in-Charge, P&T, Dispensary, Vijayawada.
8. The Postmaster, Nuzvid, H.C. 521201.

DA.530/99

- | | |
|----------------------|------------------------|
| 1. B. Venkateswarlu | 9. A. Ravi Babu |
| 2. V. Veeramma (Smt) | 10. P. Lakshamma (Smt) |
| 3. K. Ram Bai (Smt) | 11. SK. Saidamma (Smt) |
| 4. J. Ganamma (Smt) | 12. Jan Bee (Smt) |
| 5. V. Lakshmaiah | 13. Sk. Shafee |
| 6. CH. Nageswararao | 14. K. Lakshmi (Smt) |
| 7. K. Nagamani (Smt) | 15. Md. Karem |
| 8. V. Varamma (Smt) | 16. Mohd. Akhal Ahmed |

...Applicants

Versus

Contd.... 9.

For the purpose of payment, no distinction should be made whether the casual labourers and contingency paid staff are being paid wages or from office contingencies.

(iii) The arrears at the enhanced rate are to be paid before 25.2.1993 positively."

13. The above decision of the Department relates to payment of wages to casual labourers according to the recommendations presumably of the IVth Pay Commission. As already stated in the D.P. letter dated 10.2.1993 within the meaning of the term 'Casual labourers' are included fulltime casual labourers, part-time casual labourers and workers engaged on contingency basis. The part-time workers, casual or contingency paid, are also considered to be entitled to payment of wages on pro-rata basis and it has been categorically stated that for the purpose of payment no distinction should be made whether the casual labourers and contingency paid staff are being paid wages or from office contingencies. There is no reason why the same consideration should not be applied to the applicants for payment of revised wages on pro-rata basis in accordance with the recommendations of the Vth Pay Commission.

14. The letter dated 21.9.1993 (Annexure-III A at page 14 of the CA 1635/98) gives effect to the payment of the revised wages with effect from 1.1.1996. The relevant extract of the said letter issued by the GSEI, N.2, Hyd dated is reproduced below:-

"In view of the guidelines laid down by the Department of personnel & Training vide letter No.49014/2/86-Estt(C) Dt.7.6.88 issued in compliance of the Apex Court judgment regarding wages of Casual Labourers it has now been decided that all the casual labourers working in the Dept. may be paid wages at the rate of 1/30th of pay at the minimum of the relevant pay scale plus Dearness Allowance for work of 8 hours with effect from 1.1.96."

Contd.....18.

15. The above orders were issued by the Telecom Commission with concurrence of Finance vide Dy.No.2347/FA-1/93 dated 10.9.1993. There is, therefore, no reason why 1.1.1996 should not be taken as the effective date even in the case of the present applicants who belongs to postal Dept. It is pertinent to note that the respondents have not disputed the correctness of the aforesaid letter dated 23-9-1992 which is produced by the applicant in A.N. 1685/93 at page 14 annexure III-A.

16. The Hon'ble Supreme Court in the case of Daily-Rated Casual labour employed under P&T Department through Jharatiya Dak Tai Mazdoor Manch V. Union of India and others (1997) 5 ATC 223 inter alia held that the classification of employees into regularly recruited employees and casual employees for the purpose of paying less than the minimum pay payable to employees in the corresponding regular cadres particularly in the lowest rungs of the department where the pay scales were the lowest was not tenable. It is held by the Supreme Court that such classification was opposed to the spirit of Article 7 of the International Covenant on Economic, social and Cultural Rights, 1966. It is further observed in the said judgment that the state could not deny at least the minimum pay in the pay scales of regularly employed workmen, even though the Government may not be compelled to extend all the benefits enjoyed by regularly recruited employees. Such denial as laid down by the Supreme Court amounted to exploitation of labour. The Supreme Court further observed that the Government could not take advantage of its dominant position and compel any worker to work even as casual labourer on starvation wages. It is further observed that the casual labourer may have agreed to work on such low wages. But he did so because he had no other choice and it was poverty that had driven him to that state. The Government should be a model employer.

17. While on the subject the Supreme Court also observed in the above case that non-regularisation of temporary employees or casual labourers for long time could not be said to be a wise policy and directed the respondents to prepare a scheme on a rational basis for absorbing, as far as possible the casual labourers who have been continuously working for more than one year in the post and Telegraphs Department.

Contd.....19.

SA. 639/99

Between.

A. Tataiah

...Applicant

And

1. Union of India, rep. by Director General, Dept of posts, Dak Bhavan Sansad Marg, New Delhi.
2. The Chief Postmaster General, AP, Circle, Dak Sadan Abids, Hyderabad.
3. The Superintendent of post Office, Gudur Division, Gudur (ML)
4. The Postmaster Head post office, Gudur (ML)

...Respondents

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SA. 648/99

Between.

1. Dokka Nagamma
2. Kancharla Panduranga Rao
3. Narra Sasintha
4. G. Yellamma
5. J. Lakshmi
6. B. Krishna veni

7. M. Sarada
8. Pathan Subhani
9. B. Venkata Lakshmi
10. Sk. Hussain Bee
11. N. Parvathamma

...Applicants

And

1. The Union of India rep. by the Director General Dept. of posts (D.G(P) for short)
2. The Chief postmaster General, AP, Circle, Hyd-1.
3. The Superintendent of post offices, Narasaraopeta Division Narasaraopeta.
4. The postmaster, Narasaraopeta, H.O.
5. The Postmaster Sattenapalle, H.O.

...Respondents

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SA 649/99

1. K.O.M. Nagabhusana Rao
2. Gondu Venakamma
3. Kesavarapu Nagamani
4. P. Lakshmi Narasimhamurthy
5. MD. Sharfuddin
6. Gaddada Gowrama

7. Madabattula Danamma
8. Yerravarapu Seethamma
9. Charukuwada Sakthubai
10. Patarlepalli Papayamma
11. Kondavesti Kondalareaju
12. Shaik Alishah

...Applicants.

Versus

Contd...12.

1. The Union of India rep. by the Director General
Dept of posts, Dsk Bhavan, New delhi-110001.
2. The Chief Postmaster General, AP, Circle, Hyd-1.
3. The Sr. Superintendent of post offices, Shimavaram Division
Shimavaram.
4. The Postmaster, Shimavaram, H.O.-534201.
5. The Postmaster, Tanuku H.O. 534211.
6. The postmaster Palakol.H.O. 534260.

... Respondents

- | | |
|-----------------------------|--|
| Counsel for the Applicants | Sri KSR Anjaneyulu in OA 1635/98
& OA 112, 125, 167, 302, 442/99
Sri TVVS Murthy in OAs 424, 440
441 529, 554, 635, 643 and 649/99
Sri. Krishna Devan in OAs 154,
317, 318 & 639/99
Sri.Y.Appalaraju in OAs 326,
480, 527 & 530/99
Sri.K.Sudhakar Teddy in OA 531/99 |
| Counsel for the Respondents | Sri B.N.Sherma, Sr.CGSC (in OAs. 112,
154, 317, 527, 530, 531 & 649/99
Shri J.R.Gopal Rao, CGSC (in OA. 440,
529, 639 of 1999)
Shri V.Rajeswara Rao, Addl.CGSC in
(OAs 1685/98, 167, 302 & 554 of 1999)
Shri V.Vinodkumar, Addl.CGSC in
OAs 326, 441 & 480 of 1999
Miss.Shyama, Addl.CGSC in (OAs 125,
424, 442, 635 & 648 of 1999)
Shri P.Phalguna Rao, Addl.CGSC in
OA.NO. 318/99). |

CORAM.
 THE HON'BLE MR.JUSTICE D.H. NASIR : VICE - CHAIRMAN
 THE HON'BLE M.H. RAJENDRA PRASAD : MEMBER (A)

(Judgement per Hon'ble Mr. Justice D.H.Nasir,
 Vice-Chairman)

O R D E R

Justice D.H.Nasir, VC

1. The respondents are sought to be directed in this group of OAs to grant to the applicants who are casual mazdoors the minimum of the pay scale corresponding to regular Group 'D' officials in the revised pay scale on pro-rata basis with effect from 1.1.1993 following the Fifth Pay Commission recommendations as per DGT Letter No.259/11/98/STN-II dated 15.9.1998.

Contd...13.

2. Common questions of law and facts arise for consideration in this batch of 23 CAs and, therefore they are being disposed of by this common order.

3. The applicants allege that they were orally threatened by respondent No.1 and his subordinate officers that unless they agreed to work as Casual Mazdoors at Rs.1,200/-P.M. and that too in pseudonyms their services would be terminated. When the applicants asked for written orders to that effect the respondents relented and paid wages for December, 1998 in January 1999. The applicants also allege that the conduct of the respondents threatening termination of their services by entrusting their work to Contract Labourers was an unfair labour practice. The denial to pay the arrears of proportionate pay and allowances due to the applicants amounted to violation of the DOT instructions contained in letter dated, 23.11.1998 and the decision of the Hon'ble S. Supreme Court dated 23-10-1987 in WP.No.373 of 1986, as could be seen from the letter of General Manager, Telecom District, Vijayawada dated 1.1.1997.

4. The Assistant Postmaster General (Staff & Vigilance) in the office of CGIG, AP Circle, Hyderabad mentions in the reply affidavit in CA 1635/98 that the allowances of the applicants were fixed on the basis of the minimum pay scale of Group 'D' i.e. Rs.750-940 as recommended by the IVth Pay Commission and as decided by respondent No.1 vide his letter dated 10.2.1988 with effect from 5.2.1986. The Central Government revised the pay scales of its employees with effect from 1.1.1996. According to Rule 2 of the CCS (Revised pay) Rules, 1997 the revised pay rules were not applicable to the persons paid out of contingencies. The respondent No.1 in consultation with Department of personnel & Training decided vide his office Memorandum No.1-3/97-PAP dated 3.11.1998 that the remuneration of Full time Casual Labour/Workers engaged on contingent basis whose nature of work was the same as that of regular employees should be remunerated on pro-rata basis with reference to the minimum of the pay scale of Group 'D' as per CCS (Revised pay) Rules, 1997 notwithstanding the fact that the revised pay rules did not apply to them. He further states that the orders would take effect from the date of issue i.e. 3.11.1998 and therefore, the applicants were entitled for revised pay and allowances only from 3.11.1998.

Contd...13.

5. Further according to the respondents the Senior postmaster, G.P.O., Hyderabad who was the Controlling officer of the applicants was not Competent to revise the pay and allowance of the applicants. Fixation of the pay and allowances of the applicants by him with effect from 1.11.1997 on pro-rata basis of the revised pay scale was, therefore, not correct. Respondent No.2 was not empowered to revise the allowances of the applicants on pro-rata basis. It was, therefore, mentioned in his order dated 9.12.1997 as follows.

"However, the payments thus ordered will be subject to adjustment based on further orders from the Directorate".

6. It is further contended that respondent No.2, acted on instructions contained in the order dated 3.11.1998 of respondent No.1 who had rightly issued the impugned order dated 26.11.1998 directing the excess payment made upto 3.11.1998 to be recovered either at the discretion of the controlling authority or on the basis of the respondent No.2's order dated 3.12.1997.

7. It is also contended by the Respondents that the applicants had not exhausted the alternative remedy of approaching the higher authority for redressal of their grievances inasmuch as they did not make any representation to the competent authority before approaching this Tribunal.

8. The orders dated 3.11.1998 issued by respondent No.1 in consultation with the Department of Personnel & Training of Government of India, according to the Respondents, cannot be termed as discriminatory inasmuch as the respondent No.1 decided to revise the allowances on pro-rata basis of the pay scale as revised by the 5th pay Commission, even though the applicants were not entitled to fixation on the basis of the revised pay scales as per Revised pay rules of 1997. As long as the Revised pay rules, 1997 were not challenged, the applicants were not justified in claiming the reliefs as sought in the current batch of CAs, according to the Respondents.

...Contd... 15.

9. The main question which arises for our consideration from the above pleadings is, whether the applicants are entitled to claim and receive proportionate pay and allowances according to the recommendations of the Vth pay commission with effect from 1st January, 1996 itself or whether the department is empowered to give effect of the same from any subsequent date. As seen above, the respondents came up with a contention that under Rule 2 of the CCS (Revised Pay) Rules, 1997, the revised pay rules were not applicable to the casual mazdoors who were paid out of contingencies. However, R-1 in consultation with the Department of personnel & Training decided vide his office memorandum dated 3.11.1998 that the remuneration of the full-time casual labour engaged on contingency basis whose nature of work was the same as that of the regular employees should be remunerated on pro-rata basis with reference to the minimum of pay scale of Group 'D' as per CCS (Revised Pay) Rules, 1997 notwithstanding the fact that the revised pay rules did not apply to them.

10. As regards the effective date, the respondents raise a plea that the order could take effect only from its date of issue i.e. 3.11.1998 and therefore, the applicants were entitled for revised pay and allowances only from 3.11.1998. We have also seen the contention raised by the respondents that the Senior postmaster, L.T.O. Hyderabad was the Controlling Officer of the applicants and that he was not competent to revise the allowance of the applicants and therefore, fixation of 1.11.1997 as the date from which the revised pay and allowances could be paid to the applicants was not correct.

11. We are firmly of the opinion that since the revised pay and allowances were allowed to the Central Government employees with effect from 1.1.1996 according to the recommendations of the Vth pay Commissions, there was no rationale behind fixing any other subsequent date in case of the applicants before this Tribunal who are casual mazdoors and whose nature of work is the same as that of the regular employees, as stated in the reply affidavit filed by the respondents. If any other subsequent date is fixed in the case of casual mazdoors, it would be a pure and simple case of discrimination and would be violative of Article 14 of the Constitution of India.

Contd....16.

It would also be hit by the principle of "equal pay for equal work." Before we arrive at any conclusion, however, we must take note of the letter dated 3.11.1998 issued by Government of India, Ministry of Communication, Department of Posts para-1 of the said letter which is relevant for the proposition in question as under:-

" It has now been decided that notwithstanding that the CCS(19) Rules, 1997 do not apply to them, the remuneration of the aforesaid full time casual labour (other than Temporary status) part time casual labour/workers engaged on contingency basis whose nature of work is the same as of regular employees i.e. part time Chowkidar/Farash/Mali/Sweeper etc. & who are not engaged for post office operative work and are being paid as per instructions contained in this office letter No.45/95/37-SPB.1 dated the 10th February 1993 and Department of Personnel & Training OM.No.19C14/2/96-Estt(C) dated the 7th June, 1993 shall be remunerated on pro-rata basis with reference to the minimum of the pay scale of Group 'D' as per CCS (Revised pay) Rules, 1997 plus admissible Dearness Allowance thereon only."

It is in this Office Memorandum dated 3.11.1998 that it has been laid down that the order contained in the said letter would take effect from the date of issue. In the last paragraph of the said letter it is also mentioned that the said letter was issued with the concurrence of the Department of Personnel & Training vide U.O.No. 637/93-Estt(C) dated 7.9.1993 and postal finance Advice vide their Diary No. 2307/FA/98 dated 3.11.1998.

12. Meaning of the term "Casual Labourers" has been clarified in the DCP letter No. 45/95/37-SPB-1 dated 10.2.1993 Annexure-III at page 13 of the letter No. 1993/93 in which it is stated as under:-

- "(ii) The word "Casual Labourers" would cover full-time casual labour parttime casual labour and workers engaged on contingency basis. All such workers, casual or contingency paid will be paid on prorata basis."

Contd.... 17.

For the purpose of payment, no distinction should be made whether the casual labourers and contingency paid staff are being paid wages or from office contingencies.

'iii' The workers at the enhanced rates are to be paid before 25.2.1993 positively."

13. The above decision of the Department relates to payment of wages to casual labourers according to the recommendations presumably of the IVth Pay Commission. As already stated in the DLP letter dated 10.2.1993 within the meaning of the term 'Casual labourers' are included fulltime casual labourers, part-time casual labourers and workers engaged on contingency basis. The part-time workers, casual or contingency paid, are also considered to be entitled to payment of wages on pro-rata basis and it has been categorically stated that for the purpose of payment no distinction should be made whether the casual labourers and contingency paid staff are being paid wages or from office contingencies. There is no reason why the same consideration should not be applied to the applicants for payment of revised wages on pro-rata basis in accordance with the recommendations of the Vth Pay Commission.

14. The letter dated 23.6.1993 (Annexure-III A at page 14 of the SA 1635/96) paves the way for payment of the revised wages with effect from 1.1.1996. The relevant extract of the said letter issued by the CSMT, A.P. Hyderabad is reproduced below:-

"In view of the guidelines laid down by the Department of Personnel & Training vide letter No. 49014/2/86-Estt(C) Dt. 7.6.88 issued in compliance of the Apex Court judgment regarding wages of Casual Labourers it has now been decided that all the casual labourers working in the Dept. may be paid wages at the rate of 1/30th of pay at the minimum of the relevant pay scale plus Dearness Allowance for work of 8 hours with effect from 1.1.96."

Contd....18.

15. The above orders were issued by the Telecom Commission with concurrence of Telecom Finance vide Dy.No.2347/FA-1/98 dated 10.9.1998. There is, therefore, no reason why 1.1.1996 should not be taken as the effective date even in the case of the present applicants who belongs to postal Dept. It is pertinent to note that the respondents have not disputed the correctness of the aforesaid letter dated 23-9-1998 which is produced by the applicant in M.N. 1685/93 at page 14 annexure III-A.

16. The Hon'ble Supreme Court in the case of Daily Rated Casual Labour employed under P&T Department through Bhartiya Dak Tar Mazdoor Manch V. Union of India and others (1937) 5 AITC 228 inter alia held that the classification of employees into regularly recruited employees and casual employees for the purpose of paying less than the minimum pay payable to employees in the corresponding regular cadres particularly in the lowest rungs of the department where the pay scales were the lowest was not tenable. It is held by the Supreme Court that such classification was opposed to the spirit of Article 7 of the International Covenant on Economic, social and Cultural Rights, 1966. It is further observed in the said judgment that the state could not deny at least the minimum pay in the pay scales of regularly employed workmen, even though the Government may not be compelled to extend all the benefits enjoyed by regularly recruited employees. Such denial as laid down by the Supreme Court amounted to exploitation of labour. The Supreme Court further observed that the Government could not take advantage of its dominant position and compel any worker to work even as casual labourer on starvation wages. It is further observed that the casual labourer may have agreed to work on such low wages. But he did so because he had no other choice and it was poverty that had driven him to that state. The Government should be a model employer.

17. While on the subject the Supreme Court also observed in the above case that non-regularisation of temporary employees or casual labourers for long time could not be said to be a wise policy and directed the respondents to prepare a scheme on rotational basis for absorbing, as far as possible the casual labourers who have been continuously working for more than one year in the post and Telegraphs Department.

Contd.....19.

13. The Department of personnel & Training has not minced any word in directing that if any revision of Group 'D' pay scale takes place casual labourer with temporary status will be entitled to receive their wages with reference to the minimum of the revised pay scale with effect from the date as applicable to regular Group 'D' employees (emphasis supplied) and no separate orders would be necessary for the purpose. It is further stated in the said office Memorandum that their pay for the purpose of calculation of wages should be determined in the same way as in the case of regular Group 'D' employees. These instructions are contained in GSI Department per 3 Trg. M No. 49011/2/97-Est(C) dated 24.10.1997 which appears at page 62 Annexure-A-III of OA 441/99. In fact the entire text of the said OM is required to be reproduced here so that a wholesome view could be taken. The text reads as follows:-

" 2. As per para 5 of the casual labourers (Grant of Temporary status and Regularisation) Scheme, temporary status would entitle the casual labourers to the following benefits:-

- (i) Wages at daily rates with reference to the minimum of the pay scale for corresponding regular Group 'D' officers including DA, HRA and CCA.
- (ii) benefits or allowances at the same rate as applicable to a Group 'D' employee would be taken into account for calculating prorata wages for every one year of service subject to performance of duty for at least 240 days (200 days in administrative offices observing five days' leave) in the year from the date of conferment of temporary status.

3. It is obvious from points (i) and (ii) above that if any revision of Group 'D' pay scale takes place, casual labourers with temporary status will be entitled to receive their wages, with reference to the minimum of the revised pay scale with effect from the date as applicable to regular Group 'D' employees and no separate orders would be necessary for the purpose. Their pay for the purpose of calculation of wages will be determined in the same way as in the case of regular Group 'D' employees.

4. This has the approval of Ministry of Finance (Department of Expenditure)"

Contd...20.

An argument could indeed be advanced that the said order dated 21.10.1987 deals with the casual mazdoors on whom temporary status has been conferred and not with casual mazdoors sans such conferment.

19. How casual mazdoors on whom temporary status has not been conferred, could be treated as eligible for the same benefits is required to be convincingly dealt with.

20. The main grounds for allowing 1.1.1996 as the effective date for payment of revised pay on pro-rata basis emerge as follows.

- (i) Nature of work isthesame as that of regular employees (as stated in letter dated 3.11.1999 para-2)
- (ii) Within the meaning of the term "Casual labourers" Full time casual labourers/part-time casual labourers and workers engaged on contingency basis are included.
- (iii) Part-time workers, casual or contingency paid, are also considered to be entitled to payment of wages on pro-rata basis (reference DGP letter date 1.12.1998).

21. To sum up the above discussion, the following situation reveals:

(a) The Government of India vide its communication dated 9.12.1997 in connection with payment of higher wages to part-time casual labourers decided to extend the revised scales on pro-rata basis to part-time casual labourers in an uniform manner in the entire circle with effect from 1.11.1997. The disputed portion of this communication was the effective date which was stated to be 1.11.1997.

(b) We have seen however from the DGT communication dated 15.9.1998 and 23.9.1998 that the Telecom Commission in view of the guidelines laid down by the personnel and Training Department vide letter dated 7.6.1988 issued in compliance with the Apex Court Judgment regarding wages of labourers, decided that all casual labourers working in the department be paid wages at the rate of 1/30th of pay at the minimum of the revised pay scales plus Dearness Allowance for work of 8 hours with effect from 1.1.1996.

Contd....21.

(c) There is, therefore, no reason why 1.1.1996 could not be applied as the effective date in case of the applicants also who are employed with postal Department, more particularly in view of the fact that the said communication dated 15.9.1997 was issued in accordance with the guidelines laid down by the Department of personnel & Training, apart from the fact that a clear case of discrimination would emerge if the same effective date is not granted in case of the present applicants.

(d) Earlier the Department of posts, A.P. Circle Hyderabad vide its communication dated 9.12.1997 in connection with the payment of higher wages to part-time casual labourers decided to extend the revised scales in an uniform manner in the entire circle with effect from 1.11.1997 and not from 1.1.1996.

(e) The Supreme Court also in Writ petition Nos.373 and 302 of 1996 decided on 27th October, 1997 (Supra) directed the Union of India and other respondents to pay wages to the workmen who were employed as casual labourers belonging to several categories of employees in the posts and Telegraphs Department at the rates equivalent to the minimum pay in the pay scales of regular employees working in the corresponding cadres. The Supreme Court also laid down that the petitioners were entitled to corresponding Dearness Allowances and Additional Dearness Allowance, if any, payable thereon and directed that whatever other benefits which were enjoyed by the casual labourers should be continued to be extended to them.

22. The Superintendent of post offices, Tanali Division vide his Communication dated February, 1999 stated that in supersession of the orders issued revising the allowance with effect from 1.1.1996, 1.11.1997 and 1.7.1998 vide office Memos of even number dated 15.5.1998, 6.8.1998 and 10.11.1998 respectively excess payments made prior to 3.11.1998 were to be recovered and compliance reported to them.

Contd....22.

23. This communication is referred to at this stage because altogether a new date 1.11.1997 was determined as the effective date for revision of allowances payable to part-time contingent staff. This communication gives us an impression that a good deal of ambiguity prevailed at the relevant time amongst various levels of the department of posts and nothing more exact or binding conclusively was coming to surface.

24. The Department of Personnel & Training vide its office Memo No. 19011/2/97-Estt(c) dated 24.10.1997 minced no words in stating in paragraph-3 of the said O.M. that if any revision of group 'D' pay scale took place, the casual labourers with temporary status will be entitled to receive their wages with reference to minimum of the revised pay scales with effect from the date as applicable to regular Group 'D' employees and no separate orders would be necessary for the purpose. Their pay for the purpose of calculation of wages would be determined in the same way as in the case of regular Group 'D' employees.

25. Since the regular Group 'D' employees have already been granted the revised pay scale with effect from 1.1.1996, there is no rhyme or reason why similar benefits be denied to the casual muddoors who are the applicants before us in this group of case, in spite of the fact that temporary status may not have been conferred upon them, as already discussed earlier.

26. In *Surinder Singh V. Engineer-in-Chief, CPWD and others* (AIR 1986 SC 76) the Supreme Court observed that the Central Government like all organs of the state was committed to the Directive Principles of State policy and Article 36 enshrined the Principle of "equal pay for equal work", and referred to the case of *Bandar Singh V. Union of India* (1982) 3 SCR 299 wherein the Supreme Court had on occasion to make observations in *Kishori Mohanlal Bakshi V. Union of India* (AIR 1962 SC 1139) and to point out how the principle of equal pay for equal work was not an abstract doctrine and how it was a vital and vigorous doctrine throughout accepted by the particularly by socialist countries.

Contd....23.

27. Similar views were expressed by the Supreme Court in *Dhirendra Chandel and another V. State of Uttar Pradesh* (ATR 1986 SC 172) that the casual employees who were in the service of the different Nehru Yuvak Kendras in the country and who were admittedly performing the same duties as class IV employees, must, therefore, get the same ~~xx~~ salary and condition of service as Class IV employees and it made no difference whether they were appointed in sanctioned posts or not. So long as they were performing the same duties, they must receive the same salary and conditions of service as class IV employees.

28. There is, therefore, no reason why on the application of the principle that 'equal pay should be paid for equal work' the present applicants before us be deprived of the same benefit in terms of pay/wages as well as in terms of the date from which the same could be made effective. There could, therefore, be no constraint on directing the Department to refrain from making any recoveries from the pay and allowances received by the applicants on the ground of excess payment 'wrongly' made prior to 3.11.1998.

29. It may be argued that the Administrative Tribunal should ordinarily desist from giving such directions which may involve heavy financial commitments and implications. However, it would not be correct to say so in the context of the present JAs because the recurring liability of paying wages on pro-rata basis according to the recommendations of the 7th pay Commission has already been incurred by the Department by holding that the casual labourers are entitled to enhancement. The only point which had been hanging fire was relating to the effective date. Initially the department said that the effective date should be 1.11.1997 and subsequently the respondents raised a contention that the same was erroneous and directed not only that the effective date should be considered from 3.11.1998 but also that any excess payment received by the applicants on that account should be recovered from their wages. We have already dealt with this aspect earlier in this judgment.

Contd....24.

What we are trying to emphasize is that our order would only be limited to giving the effective date as 1.1.1996 which would involve only one time payment of the difference and therefore, we believe that we are not exceeding our jurisdiction in passing the instant order.

25. The present WAs are, therefore, disposed of with the following directions:-

- (a) The Office Memorandum No.1-3/97-PAP dated 3-11-1998 determining the date of applicability to be 3.11.1998 as well as another office letter No.1ST/1-60/PCC/97-98/Corr dated 26.11.1998 directing recoveries to be made from the wages of the present applicants are hereby quashed.
- (b) The respondents are directed to give the applicants the minimum of the pay scale corresponding to regular Group 'D' employees in the revised pay scale on pro-rata basis with effect from 1.1.1996.

No order as to costs.

Sd/-xxxx

Section Officer.

प्रमाणित प्रति

CERTIFIED TRUE COPY

क्रम संख्या

CASE NUMBER ... 0A.1685/98 & batch

निर्दिष्ट तिथि

DATE OF PRESENTATION ... 29.4.99

प्रति तयारी

COPY MADE READY ON ... 22.6.99

[Signature]

सहायक न्यायाधीश, न्यायालय अधिकारी

Subordinate Court Officer

केन्द्रिय प्रशासनिक न्यायालय

Central Administrative Tribunal

हैदराबाद बेंच

HYDERABAD BENCH.