

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO. 170/00042/2017

DATED THIS THE 13TH DAY OF OCTOBER, 2017

HON'BLE DR. K.B. SURESH, MEMBER (J)
HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

1. M.K. Kallannavar,
Age: 50 years,
S/o Kallappa
Working as Full time Casual Labour,
C/o SRO RMS HB Division,
Belgavi – 590 001.
Residing at:
3rd Cross, Laxminagar,
Kakati, Belgavi

2. S.B. Kalam,
Age: 52 years,
S/o Bhimappa,
Working as FTCL.
C/o SRO RMS 'HB' Division,
Belagavi – 590001.
Residing at:
Ankalgi

3. R.G. Kulkarni,
Age: 51 years,
S/o Gundu Rao,
Working as FTCL,
C/o SRO RMS HB Division,
Belgavi – 590001.
Residing at:
H.No. 11199, Konnadagalli,
Belagavi.

4. D.M. Acharya,
Age: 49 years,
S/o Malhar,
Working as FTCL,

C/o SRO RMS HB Division,
Belagavi – 590001.
Residing at:
Opp: Shivaji Garden,
Shastrinagar, Belagavi.

5. R.M. Gudi,
Age: 49 years,
S/o Madhavacharya,
Working as FTCL,
C/o SRO RMS HB Division,
Dharwad – 580001
Residing at:
Sriram Nivas, III cross,
Malamaddi, Dharwad – 580 001.

6. P.G. Kulkarni,
Age: 51 years,
S/o Gurunath Kulkarni,
Working as FTCL,
C/o SRO RMS HB Division,
Bagalkote,
Residing at:
Sikkinamath, Honyal Galli,
Bagalkote.

7. M.B. Gorekhan,
Age: 50 years,
S/o Bhaversab Gorekhan,
Working as FTCL,
C/o HRO RMS HB Division,
Hubli – 580 020.
Residing at:
C/o V.R. Itagi,
Azad colony, Gauli Galli,
Keshavapur, Hubballi – 580 023.

.....Applicants

(By Advocate Shri P. Kamalesan)

Vs.

1. Union of India,
Represented by Secretary,
Department of Post,
Dak Bhavan,
New Delhi – 110 001.

2. Chief Post Master General,
Karnataka Circle,
Bangalore – 560001.

3. Post Master General,
N.K. Region,
Dharwad – 580001.

4. Superintendent,
R MS HB Division,
Hubli – 580 029.

....Respondents

(By Shri M. V. Rao, Senior Panel Counsel)

ORDER (ORAL)

DR. K.B. SURESH, MEMBER (J):

Heard. This matter relates to regularization of casual employees. Apparently, it was rejected on the ground that the applicants have become over aged by then. Against this the respondents would say that vide Annexure-A15 applicants had been over aged and therefore they cannot select them and regularize them as also in 1989 they had not worked for one year. But then apparently it seems that they may have done so and also from the year 2000 onwards they are working as full-time casual labourers but Shri M.V. Rao, learned counsel for the respondents, submits that the scheme for casual labourers to be regularized was only a one time measure and not an ongoing scheme. But from the circumstances of such scheme to be indicated under purpose of Article 36-39 of the Constitution of India exploitation of human labour cannot be allowed. Therefore since the applicants had been in service from 1989 onwards they will be eligible for the benefit under the scheme. The matter seems to be imminently covered in order in OA No. 170/00811/2016 dated 28.06.2017. A similar matter has been taken up to the Hon'ble High

Court also in Writ Petition No. 101917/2016 and other connected matters dated 21.06.2016 and the Hon'ble High Court also held that each of the persons are eligible to this exemption. Anyway the DoPT has apparently issued a clarification on the scheme and also has been considered by the Hon'ble High Court of Bombay in Writ Petition No. 2586/2011 and held that similarly situated people have a right to be considered thus. It is also covered by the Hon'ble Apex Court order in *Dak Tar Mazdoor Manch Vs Union of India & Others* and also relying on *Dhirendra Chamoli Vs. State of U.P.* (1986) 1 SCC 637 held that the state have the responsibility to protect the right of work, equal pay for equal work, security of work etc., which has to be ensured by appropriate executive measures. Therefore the DoPT had given the concerned circular amending the earlier circular on the scheme. The applicants completely fit in the amended scheme. Therefore there will be an order to the respondents to grant such regularization to the applicants within two months next and grant them appropriate consequences also within this timeframe.

2. The OA is allowed. No order as to costs.

(PRASANNA KUMAR PRADHAN)
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00042/2017

Annexure A1: True copy of Engagement of Applicants 1,2,3,4 at SRO

Belgaum

Annexure A2: True copy of Superintendent RMS HB Division, Hubli letter No. B-I/42(O/S)/Maz/CL/99-2000 regarding distribution of vacant ED and Part Time Casual Labourers Hours

Annexure A3: True copy of Superintendent RMS HB Division, Hubli letter No. K1/RTI/15/12 dated 19.11.2012

Annexure A4: True copy of Superintendent RMS HB Division, Hubli letter No. K1/RTI/10/2013 dated 08.10.2013

Annexure A5: True copy of Hon'ble Apex Court order dated 27.10.1987 in Bharatiya Dak Tar Mazdoor Manch Vs Union of India and others

Annexure A6: True copy of DoPT OM No. 49014/2/86-Esst (C) dated 07.06.1988

Annexure A7: True copy of Department of Posts letter No. 61-24/88-SPB I dated 17.05.1989

Annexure A8: True copy of Casual Labourers (Grant of temporary status and regularization) scheme

Annexure A9: True copy of regularization of part time casual labourers as full time Department of Posts letter No.45-14/92-SPB I dated 16.09.1992

Annexure A10: True copy of G.S.R. 984 (E) Recruitment Rules for MTS vide Gazette Notification dated 12.12.2010

Annexure A11: True copy of circular No-45-28/2004-SPB-I dated 08.12.2004 addressed to all the Pr Chief Postmasters General

Annexure A12: True copy of order of Central Administrative Tribunal, Bangalore Bench in OA No. 614/2014 dated 27.02.2015

Annexure A13: True copy of order of Central Administrative Tribunal, Bangalore Bench in OA No. 615/2014 dated 06.10.2015

Annexure A14: True copy of order of Hon'ble High Court of Karnataka in Writ Petition No. 101917/2016 dated 21.06.2016

Annexure A15: True copy of Superintendent RMS HB Division, Hubli letter No. B-I/CAT/FTCL/MKK/2016 dated 27.09.2016

Annexure A16 (1): True copy of judgment of Hon'ble High Court of Calcutta in W.P.C.T. No. 449/2006 dated 08.12.2006

Annexure A16 (2): True copy of judgment of Hon'ble Supreme Court in AIR 1984 SC 534 Smt P.K. Narayani Vs. State of Kerala dated 24.11.1983

Annexure A16 (3): True copy of judgment of Hon'ble Supreme Court in (1992) 4 SCC 118 State of Haryana Vs. Piara Singh dated 12.08.1992

Annexure A16 (4): True copy of judgment of Hon'ble Supreme Court in AIR 1998 SC 1477 Anil Kumar Rout Vs. State of Bihar dated 20.11.1997

Annexure A16 (5): True copy of judgment of Hon'ble Supreme Court in AIR 1987 SC 1467 R.K. Rama Rao Vs. State of A.P. dated 08.05.1987

Annexure A16 (6): True copy of judgment of Hon'ble Supreme Court in AIR 2005 SC 2531 Badri Prasad Vs. Union of India dated 06.05.2005

Annexure A16 (7): True copy of judgment of Hon'ble High Court of Punjab and Haryana in CWP No. 20521 of 2012 (O&M) dated 12.10.2012

Annexure A16 (8): True copy of judgment of Hon'ble Supreme Court in 2010 AIR SCW 4577 State of Karnataka Vs. M.L. Kesari dated 03.08.2010

Annexure A16 (9): True copy of judgment of Hon'ble Supreme Court in (2005) 5 SCC 4577 122 Madhyamik Shiksha Parishad, U.P. Vs. Anil Kumar Mishra & Others dated 19.08.1992

Annexure A16 (10): True copy of judgment of Hon'ble Supreme Court in I.A No. 2 of 2016 in Civil Appeal No. 13953 of 2015 dated 03.10.2016

Annexure A16 (11): True copy of judgment of Hon'ble Supreme Court in (2010) 15 SCC 718 in Civil Appeal No. 3215 of 2002 dated 18.04.2002

Annexures with reply statement:

Annexure R1: True copy of letter dated 13.11.1998 from Superintendent RMS HB Division to The PMG, Dharwad regarding Outsider/Casual labourers working in RMS HB Division

Annexure R2: True copy of letter dated 09.05.2000 from Superintendent RMS HB Division regarding distribution of vacant ED and Part Time Casual Labourers Hours for providing Full Time employment – reg.

Annexure R3: True copy of G.S.R. 984 (E) Ministry of Communications and Information Technology notification dated 12.12.2010

Annexure R4: True copy of G.S.R. 512 (E) Ministry of Communications and Information Technology notification dated 28.06.2012

Annexure R5: True copy of CPMG, Bangalore letter No. R&E/2-19/Dlgs/IV dated 11.09.2013 regarding filling up of MTS vacancies as per MTS R/Rs 2010

Annexure R6: True copy of Department of Posts circular No. 45-24/88-SPB-I regarding clarification regarding recruitment, promotion to Group D Postman cadre etc. of Casual Labourers/Group D Staff

Annexure R7: True copy of Department of Posts circular No. 45-24/2004-SPB-I dated 08.12.2004 regarding clarification regarding age limit applicable for GDS and Casual Labourers.

Annexure R8: True copy of Department of Posts circular No. 37-33/2009-SPB-I dated 13.01.2016 regarding clarification on Recruitment Rules of MTS, 2015.

Annexure R9: True copy of Department of Posts letter on Casual labourers and Part time casual labourers clarification – reg.

Annexure R10: True copy of Department of Posts letter F. No. 01-20/2015-SPB-I dated 30.06.2015 addressed to the CPMG, Karnataka Circle.
