

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

OA. 350/ 57/2014

Present :Hon'ble Ms. Bidisha Banerjee, Judicial Member

1. Amrita Lal Ghosh, son of late Sasanka Kumar Ghosh, aged about 37 years, residing at Dhormaraj Talapara, P.O. Rampurhat, Dist- Birbhum.
2. Anupam Paul, son of Prasanta Kumar Paul, aged about 26 years, residing at Vill. Kandarsona, P.O. Saktigarh, Dist- Burdwan.
3. Gurucharan Ghosh, son of Uma Charan Ghosh, aged about 35 years, residing at Surya Nagar, P.O. Sripally, Dist- Burdwan.
4. Sk. Rabiul Haque, son of Lt. Sk. Modhul Haque, aged about 38 years, residing at Rajganj Masjidtala, P.O. Nutanganj, Dist- Burdwan.
5. Ratan Kumar Talukdar, son of late Manindra Chandra Talukdar, aged about 41 years, residing at Vill. Netaji Pally, P.O. Sainthia Dist. Birbhum, Pin- 731 234.
6. Samir Pal, son of Lt. Shyamsundar Pal, aged about 36 years, residing at Mirchaba, Suryanagar P.O. Sripally, Dist- Burdwan, Pin- 713 103.
7. Pradip Ranjan Roy, son of late Uma Charan Roy, aged about 51 years, residing at Quarter No. Q/54, Sagarbhanga Colony, P.O. Durgapur-11, Dist- Burdwan, Pin- 713 211.
8. Ashoke Kumar Chatterjee, son of Birendra Nath Chatterjee, aged about 42 years, residing at Ichabad, Ghoshpara, P.O. Sripally, Dist- Burdwan, Pin- 713 103.

9. Utpal Kumar Mondal, son of late Bhanga Bhusan Mondal, aged about 50 years, residing at P.O. Uttar Banagram, Dist- Birbhum.
10. Anirban Chakraborty, son of Shibsankar Chakraborty, aged about 32 years, residing at Vill & P.O. Rayan, Dist- Burdwan
11. Sk. Mukul, son of late Sk. Jasimuddin, aged about 40 years, residing at Vill. Golanat, P.O. Sripally, Dist- Burdwan, Pin- 713 103.
12. Santosh Kumar Saha, son of Nemai Chandra Saha, aged about 42 years, residing at Vill. Bajoyram, P.O. Bajepuratapur, Dist- Burdwan.
13. Santanu Biswas, son of late. Siddheshwar Biswas, aged about 42 years, residing at Vill. & P.O. Telua, Dist.
14. Falguni Mondal, son of Lt. Kashinath Mondal, aged about 37 years, residing at Vill & P.O. Chotobelun, Dist. Burdwan, Pin- 713 102.
15. Ramkrishna Mondal, son of late Kashinath Mondal, aged about 32 years, residing at Vill & P.O. Chotobelun, Dist. Burdwan, Pin- 713 102.
16. Sanjoy Samanta, son of Jatin Samanta, aged about 35 years, residing at Vill. Bigha, P.O. Bonpas, Dist. Burdwan.

-All are working as Pick-up-men /daily rated mazdoor of postal Articles under Burdwan RMS, Dist. Burdwan.

... Applicants.

-Versus-

1. Union of India through the Secretary, Ministry of Communication Deptt. Of Posts, Dak Bhawan, New Delhi- 11001.

2. The Chief Postmaster General, West Bengal Circle, Yogayog Bhawan, Kolkata-700 101.
3. The Senior Superintendent of RMS, "WB" Division, Howrah-1, Pin- 711 101.
4. The Assistant Manager (B.O.), NSPC Burdwan RMS, Pin- 713 101.
5. The ME, B Burdwan RMS, P.O. & Dist. Burdwan, Pin- 713 101.
6. The Sub-Record Officer, Burdwan RMS, P.O & Dist- Burdwan, Pin- 713 101.

... Respondents.

For the Applicant

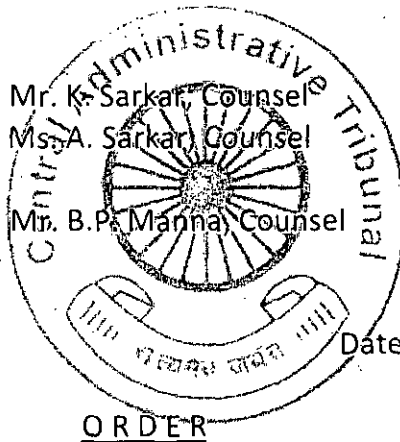
: Mr. K. Sarkar, Counsel
Ms. A. Sarkar, Counsel

For the Respondents

: Mr. B. P. Manna, Counsel

Heard on 20.09.2018

Date of order : 20.11.18



ORDER

Per Ms. Bidisha Banerjee, JM:

The applicants 16 in numbers who were engaged as daily rated mazdoors on hourly rate basis in the Business Office at Burdwan RMS for collection of book now pay latter (BNPL) articles from the door of the customers as pick up men, made in absence of MTS are aggrieved as despite their continuous service for 10 years and more than, they have not been regularised although they have served continuously and were made to do the jobs of perennial nature. It has also been alleged that they have not been given wages in accordance with the government rates.

2. The respondents on the other hand have denied their engagement against sanctioned post and claimed that their prayer for regularisation is not permissible in terms of the departmental rules.

3. The applicants have enjoined stating that they have served 5 hours per day since January, 2003 continuously and uninterruptedly. They have served the respondent authorities with fullest satisfaction. As such they are entitled to be regularised. In support thereof, the applicants have placed the regularisation scheme that came into force on 01.09.1993. They have also claimed that, in terms of Directorate Memo dated 17.05.1989 and Directorate OM dated 22.01.2015 they are entitled to remuneration payable to full time casual labours.

4. Ld. Counsels were heard and materials on record were perused.

5. It is noticed that although Divisional Secretary of Union had vide letter dated 15.07.2016 addressed to the Senior Superintendent, RMS "WB" Division sought for remuneration at the rate applicable to full time casual labourers, the said benefits have not been extended to the present applicants as yet.

6. In a very recent judgment delivered on 14.11.2018, in **Sabha Shankar Dube vs. DFO, Civil Appeal No.10956 of 2018** with other matters Hon'ble Apex Court while discussing the implications of the earlier decisions of **State of U.P. Vs. Puttilal** reported in (2006) SCC 337 and **State of Punjab Vs. Jagjit Singh** reported in (2017) 1 SCC 148 relying upon **Puttilal** where Hon'ble Apex Court had ruled that daily rated wage workers and temporary employees shall be paid at the minimum of the pay scales, on the principle of equal pay for equal work, has reiterated the rights of daily wagers towards minimum of pay scale applicable to regular employees working on the same posts w.e.f. 1st December, 2018 in the following manner:

"9. On a comprehensive consideration of the entire law on the subject of parity of pay scales on the principle of equal pay for equal work, this Court in *Jagjit Singh*(supra) held as follows:

"58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation."

10. The issue that was considered by this Court in *Jagjit Singh* (supra) is whether temporary employees (daily wage employees, ad hoc appointees, employees appointed on casual basis, contractual employees and likewise) are entitled to the minimum of the regular pay scales on account of their performing the same duties which are discharged by those engaged on regular basis against the sanctioned posts. After considering several judgments including the judgments of this Court in *Tilak Raj* (supra) and *Surjit Singh* (supra), this Court held that temporary employees are entitled to draw wages at the minimum of the pay scales which are applicable to the regular employees holding the same post.

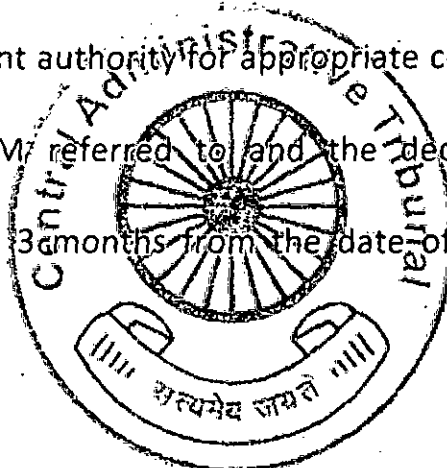
11. In view of the judgment in *Jagjit Singh* (supra), we are unable to uphold the view of the High Court that the Appellants-herein are not entitled to be paid the minimum of the pay sales. We are not called upon to adjudicate on the rights of the Appellants relating to the regularization of their services. We are concerned only with the principle laid down by this Court initially in *Putti Lal* (supra) relating to persons who are similarly situated to the Appellants and later affirmed in *Jagjit Singh* (supra) that temporary employees are entitled to minimum of the pay scales as long as they continue in service.

12. We express no opinion on the contention of the State Government that the Appellants are not entitled to the reliefs as they are not working on Group 'D' posts and that some of them worked for short periods in projects.

13. For the aforementioned reasons, we allow these Appeals and set aside the judgments of the High Court holding that the Appellants are entitled to be paid the minimum of the pay scales applicable to regular employees working on the same posts. The State of Uttar Pradesh is directed to make payment of the minimum of pay scales to the Appellants with effect from 1st December, 2018."

In view of above, the OA is disposed of with a direction to the Senior Superintendent, RMS "WB" Division to consider the grievance of the applicants as projected by way of this OA as well as through the union or forward their claim to the appropriate competent authority for appropriate consideration in accordance with the Directorate OM referred to and the decisions supra to issue an appropriate order within 3 months from the date of receipt of a copy of this order.

No costs.



(Bidisha Banerjee)
Member (J)

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