

**Central Administrative Tribunal
Madras Bench**

OA/310/00385/2017 to OA/310/000406/2017

Dated 22nd day of March Two Thousand Nineteen

P R E S E N T
Hon'ble Mr. R.Ramanujam, Member(A)
&
Hon'ble Mr.P.Madhavan, Member(J)

1. K.Munuswamy	.. Applicant in OA 385/2017
2. N.Rajendran	.. Applicant in OA 386/2017
3. N.Raghavan	.. Applicant in OA 387/2017
4. P.Rajendran	.. Applicant in OA 388/2017
5. N.Rajkumar	.. Applicant in OA 389/2017
6. A.Durai	.. Applicant in OA 390/2017
7. M.Manoharan	.. Applicant in OA 391/2017
8. M.Varadan	.. Applicant in OA 392/2017
9. K.Mari	.. Applicant in OA 393/2017
10.G.Palaniappan	.. Applicant in OA 394/2017
11.A.Vijayakumar	.. Applicant in OA 395/2017
12.N.Rajendran	.. Applicant in OA 396/2017
13.K.Marimuthu	.. Applicant in OA 397/2017
14.M.Rajendran	.. Applicant in OA 398/2017
15.M.Anbu	.. Applicant in OA 399/2017
16.A.Kulandaiswamy	.. Applicant in OA 400/2017
17.J.Dhanasekaran	.. Applicant in OA 401/2017
18.E.Balakrishnan	.. Applicant in OA 402/2017
19.A.Jeevagan	.. Applicant in OA 403/2017
20.K.Arumugam	.. Applicant in OA 404/2017
21.D.Elumalai	.. Applicant in OA 405/2017
22.M.Chakkarapani	.. Applicant in OA 406/2017

By Advocate **M/s.K.Karthik Jagannath**

Vs.

1. Union of India, rep by
The General Manager,
Southern Railway,

Park Town, Chennai 600 003.

2. The Divisional Railway Manager,
Chennai Division,
Southern Railway,
Chennai 600 003.
3. The Senior Divisional Personnel Officer,
Chennai Division,
Southern Railway,
Chennai 600 003. .. Respondents

By Advocate **Ms.R.Sathyabama, Mr.K.Vijayaragavan, M/s.Meera Gnanasekar, Mr.Y.Prakash**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The above OAs are filed seeking the following relief:-

OA 385/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 21.6.1980 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 386/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 21.6.1980 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 387/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 21.7.1982 and consequently re-fix the applicant's pension benefits with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 388/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 27.10.1979 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 389/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 27.10.1979 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 390/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 23.5.1980 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 391/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 21.7.1981 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 392/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 25.10.1981 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 393/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 10.5.1981 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and

thus render justice.”

OA 394/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 01.2.1983 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 395/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 21.10.1981 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 396/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 28.4.1982 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 397/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 21.2.1982 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 398/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 22.7.1980 with all the attendant

benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 399/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 21.12.1979 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 400/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 29.5.1982 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 401/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 27.10.1979 and consequently re-fix the applicant's pension benefits with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 402/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 27.10.1979 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 403/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 21.11.1979 and consequently re-fix the applicant's pension benefits with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 404/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 27.10.1979 and consequently re-fix the applicant's pension benefits with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 405/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 27.10.1979 and consequently re-fix the applicant's pension benefits with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

OA 406/2017:

“to call for the records related to conferment of temporary status to the applicant and to direct the respondents to re-fix the applicant's basic pay w.e.f. 27.10.1979 with all the attendant benefits as in the case of Shri S.Tirunavukkarasu and to pass such further or other orders as this Tribunal may deem fit and thus render justice.”

2. Since the relief sought and the issues raised therein are of a similar nature, these OAs are taken up together and disposed of by this common order.

3. The admitted facts in these cases in brief are as follows:-

The applicants were taken by respondents as project casual labourers on the respective dates mentioned in the OAs. According to the applicants, they were granted temporary status on various dates. One casual labourer by name Thirunavukarasu had moved a WP 8972/2002 seeking refixation of his pay from 26.9.77 onwards. The Hon'ble Madras High Court allowed the WP holding that the respondents have given artificial breaks only to deprive him the regular service. Considering the above stated facts and circumstances of the case and the previous judgment of the Division Bench of this Court (wherein his Lordship was a Member) dated 11.10.07 in WP 2554/02 and 1351/04 after following the judgment of the Hon'ble Supreme Court in *Inderpal Yadav & Others v. Union of India & Others (reported in 1985 2 SCC 648)* and also *Robert D'souza v. Executive Engineer, Southern Railway & Another (1982 SCC (L&S) 12)* it was held that “the construction or project and open line casual labourer are interchangeable...”. It was further held that “the petitioner was entitled for the grant of temporary status w.e.f. 26.9.77 with consequential benefits and the petition was allowed.”

4. The above order passed by the Hon'ble High Court was implemented by the respondent as per order No.M/P(E)524/V/G.S/FIX/Vol.II dated 09.3.2010 and Shri Thirunavukarasu was granted re-fixation w.e.f. 26.9.77 with consequential benefits (Annexure A2).

5. The applicants who are also casual labourers had applied for re-fixation of their pay on the basis of the above decision. But the respondents denied the benefits.

6. The respondents entered appearance and filed a common reply as the points in

dispute are similar. According to them, the applicants are admittedly project casual labourers and the respondents had framed a separate scheme for granting temporary status on completion of 360 days of continuous employment for project casual labourers on the basis of the decision of the Hon'ble Supreme Court in the ***Inderpal Yadav's*** case. The facts of the case of 'Thirunavukarasu' was different. He was at first engaged as an open line casual labour w.e.f. 25.1.77 and he attained temporary status w.e.f. 26.9.77. Thereafter he worked in various projects as project casual labourer. Since he is entitled to get temporary status in the open line category itself, he was granted the same. He had worked both as open line casual worker and project casual worker and it was because of that the Hon'ble High Court has granted temporary status on completion of 180 days of continuous employment. But the provision for granting temporary status was not there for project casual labourers. The Ministry of Railways had brought out a Scheme as per Circular No.E(NG)/84/CL/41 dated 11.9.86 for project casual labourers. As per the scheme a project casual labourer is entitled to get temporary status on completion of 360 days of continuous employment. It covers casual labourers on projects who were in service as on 01.1.81 and casual labourers on projects, who though not in service on 1.1.81, had been in service in Railways earlier and had already completed the above period (360 days) of continuous employment or have since completed or will complete the said prescribed period of continuous employment on re-engagement after 01.1.81. So according to the respondents grant of temporary status to project casual labourer was granted as per a scheme introduced as per order dated 11.9.86.

Accordingly, the applicants were granted temporary status on various dates on completion of 360 days of continuous service. So, according to the respondent, the applicants are not entitled to get fixation in accordance with open line casual labourers who get temporary status on completion of 180 days of continuous employment.

7. We had anxiously heard the counsels appearing on both sides. On a perusal of the OAs and representations given by the applicants, it can be seen that the applicants were originally employed as project casual labourers and they were not taken as open line casual labour. As per the decision of *Inderpal Yadav's* case, the Ministry of Railways had introduced a separate scheme for project casual labourers and the stipulation is 360 days of continuous employment for conferring temporary status. But it is true that an open line casual labour gets this benefit on completing 180 days of continuous employment. The Hon'ble Supreme Court in *Union of India & Others v. K.G.Radhakrishna Panikar & Others (reported in 1998 SCC (L&S) 1281)* had considered the classification and differential treatment in conferring benefits to certain groups and held that prescribing a particular date for granting a new benefit to a set of employees is not violative of Article 14 and 16 of the Constitution.

8. In this view of the matter, the applicants who are project casual labourers will get "temporary status" only on the basis of the new scheme brought by the Ministry of Railways. The respondents had succeeded in showing that the case of 'Thirunavukarasu' (referred supra) has no applicability to project casual labourers. The said 'Thirunavukarasu' was employed first as an open line casual employee and

he had qualified to be conferred 'temporary status' as ordered by the Hon'ble High Court w.e.f. 25.9.1977 after completing 180 days of continuous employment. **So, we are of the view that the applicants can claim temporary status only on the basis of the scheme promulgated by the Railways.** They are not entitled to get temporary status on completion of 180 days of continuous employment as in the case of open line casual labourers. So, they are not entitled to get any re-fixation and consequential benefits as prayed for.

9. In the result, OAs will stand dismissed. No costs.

(P.Madhavan)
Member(J)

22.03.2019

(R.Ramanujam)
Member(A)

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