

Dhirendra Chamoli and Another

Vs

State of U.P.

Civil Writ Petitions Nos. 4821 and 4817 of 1983

(P.N. Bhagwati, A.N. Sen JJ)

05.08.1985

ORDER

1. Rule nisi.

2. These writ petitions have been initiated on the basis of two letters, one addressed by Dhirendra Chamoli and the other by Mohan Singh both of whom are employees of Nehru Yuvak Kendra, Dehradun. The complaint made in the writ petitions is that there are a number of persons who are engaged by Nehru Yuvak Kendra as casual workers on daily wage basis and though they are doing the same work as is performed by Class IV employees appointed on regular basis, they are not being given the same salary and allowances as are being paid to Class IV employees. Since Nehru Yuvak Kendras have been started by the Ministry of Education, Government of India, we issued notice to the Central Government to show cause why the employees of the Nehru Yuvak Kendras performing the same duties as Class IV employees should not be paid the same salary and allowances. The Under-Secretary to the Government of India, Ministry of Sports has filed a counter-affidavit in which it is alleged that the Nehru Yuvak Kendras have been started at different places in the country as temporary organisations and they have not yet been made permanent, with the result that there are no sanctioned posts of Class IV employees and the employees who are engaged by different Nehru Yuvak Kendras are taken as casual employees on daily wage basis. The argument envisaged in the counter-affidavit is that since there are no sanctioned posts to which regular appointments can be made, the casual employees employed by different Nehru Yuvak Kendras cannot claim to receive the same salary and perquisites as Class IV employees appointed regularly to sanctioned posts. But while raising this argument, it is conceded in the counter-affidavit that "the persons engaged by the Nehru Yuvak kendras perform the same duties as is performed by Class IV employees appointed on regular basis against sanctioned posts". If that be so, it is difficult to understand how the Central Government can deny to these employees the same salary and conditions of service as Class IV employees regularly appointed against sanctioned posts. It is peculiar on the part of the Central Government to urge that these persons took up employment with the Nehru Yuvak Kendras knowing fully well that they will be paid only daily wages and therefore they cannot claim more. This argument lies ill in the mouth of the Central Government for it is an all too familiar argument with the exploiting class and a welfare State committed to a socialist pattern of society cannot be permitted to advance such an argument. It must be remembered that in this country where there is so much unemployment, the choice for the majority of people is to starve or to take employment on whatever exploitative terms are offered by the employer. The fact that these employees accepted employment with full knowledge that they will be paid only daily wages and they will not get the same salary and conditions of service as other Class IV employees, cannot provide an escape to the Central Government to avoid the mandate of equality enshrined in Article 14 of the Constitution. This article declares that there shall be equality before law and equal protection of the law and

implicit in it is the further principle that there must be equal pay for equal work of equal value. These employees who are in the service of the different Nehru Yuvak Kendras in the country and who admittedly performing the same duties as Class IV employees, must therefore get the same salary and conditions of service as Class IV employees. It makes no difference whether they are appointed in sanctioned posts or not. So long as they are performing the same duties, they must receive the same salary and conditions of service as Class IV employees.

3. We therefore allow the writ petitions and make the rule absolute and direct the Central Government to accord to these persons who are employed by the Nehru Yuvak Kendras and who are concededly performing the same duties as Class IV employees, the same salary and conditions of service as are being received by Class IV employees, except regularisation which cannot be done since there are no sanctioned posts. But we hope and trust that posts will be sanctioned by the Central Government in the different Nehru Yuvak Kendras, so that these persons can be regularised. It is not at all desirable that any management and particularly the Central Government should continue to employ persons on casual basis in organisations which have been in existence for over 12 years. The salary and allowances of Class IV employees shall be given to these persons employed in Nehru Yuvak Kendras with effect from the date when they were respectively employed. The Government of India will pay to the petitioners costs of the writ petitions fixed at a lump sum of Rs 1000.

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