B. R. Singh and Others

Vs

Union of India and Others

Writ Petition Nos. 627, 662, 296, 271 and 452 of 1987

(K. Jagannatha Shetty, A. M. Ahmadi JJ)

26.09.1989

JUDGMENT

AHMADI, J. –

1. This batch of petitions brought under Article 32 of the Constitution of India challenge certain actions taken by the officers of the Trade Fair Authority of India (TFAI) in exercise of their disciplinary jurisdiction whereby the services of certain regular workmen have been terminated and several casual or daily rated workers are rendered jobless. Put briefly, the facts giving rise to these petitions are as under :

> The Trade Fair Authority Employees' Union ('Union hereafter) was demanding housing facilities, regularisation of at least 50 per cent of casual or daily rated employees and upward revision of the salaries and allowances of the workers of TFAI. These demands were discussed with the Chief General Manager of TFAI on August 29, 1986 and thereafter from time to time but nothing concrete emerged. The case of the Union is that the Chief General Manager had assured the Union representatives that although it may not be possible to regularise the service of casual labour to the extent of 50 per cent some posts had already been identified and the Standing Committee of TFAI which was seized of the matter would take a decision at an early date. On the question of upward revision of wages and allowances the Union's case is that the Chief General Manager had given an assurance that pending final decision by the High Powered Committee of TFAI, the scales prevailing in MMTC and STC could be adopted. The grievance of the Union is that despite these assurances no action to implement the same was taken whereupon the Union wrote to the Chief General Manager on October 29, 1986 seeking implementation of the assurances at an early date and not later than November 15, 1986. It was also communicated that the workers belonging to the Union had decided to proceed on a token strike of one day on November 13, 1986. At a subsequent meeting held on November 3, 1986 the General Manager of TFAI is stated to have assured the Union representatives that the Standing Committee will be requested to take up the issue on priority basis so that the outcome becomes known by the end of November, 1986. No such decision was taken by the end of November, 1986; not even after the Union's reminders of December 18, 1986 and January 9, 1987 whereupon the Union wrote a letter dated January 15, 1987 to the Chief General Manager to permit the Union to hold a General Body Meeting of the Union on January 19, 1987 during lunch hours. In anticipation of such permission being granted, which had always been granted in the past, the Union dispatched notices to its members to attend the meeting.

> However, the Chief General Manager informed the Union representatives that the permission was refused. Within minutes of the receipt of this communication, the President of the Union sent a reply stating that it was not possible to cancel the meeting at such short notice. The General Body meeting was held as scheduled and a decision was taken to strike work on January 21, 1987 to protest against the management's failure to implement the assurances already given. On the same day, January 19, 1987, the Union served the management with a notice informing it about the decision to strike work on January 21, 1987. The management reacted by placing the President, Vice-President and Executive Members of the Union under suspension with immediate effect, i.e., with effect from January 20, 1987. This angered the striking workmen who had gathered outside the precincts of TFAI on January 21, 1987. They demanded the immediate withdrawal of the suspension orders failing which they threatened that the strike would continue indefinitely. Intimation to this effect was served on the Chief General Manager. The management however suspended all the remaining office bearers, the executive members and leading activists of the Union w.e.f. January 23, 1987. The strike was, however, called off w.e.f. January 24, 1987, according to the Union in the larger interest of TFAI and in national interest as the President of India was to inaugurate the AHARA '87 on January 25, 1987, while according to the management it continued for almost two weeks. Writ Petition No. 296 of 1987 is by those 42 suspended workers.

2. Now, during the strike some of the casual workers attended duty and their services remained unaffected, some others who reported for duty after the strike and were prepared to sign an undertaking in the prescribed form were given work while the remaining casual workers who did not sign such an undertaking or were late in reporting for work were denied employment. The Union's case is that out of a total workforce of about 500 causal workers, 160 did not participate in the strike and about 90 signed the undertaking and they have since been employed while the remaining casual workers are denied work. The Union sought the intervention of the Union Commerce Minister and also invoked the jurisdiction of the Labour Commissioner, Delhi Administration with a view to finding an amicable settlement as the discharged workers were facing untold miseries. However, contends the Union, the response of the management was not positive and hence the Union was left with no alternative but to invoke this court's jurisdiction for an early solution of the unemployment problem faced by the workers. Writ Petition No. 271 1987 is by 243 casual labourers who have thus been rendered jobless.

3. Thereafter the management by their orders of March 3, 1987 terminated the services of all the 12 office bearers and Executive Committee members who had been suspended earlier in exercise of their power under the special procedure outlined in Rule 32 of the TFAI Employees (Conduct, Discipline and Appeal) Rules, 1977 ('the Rules' hereafter). This rule inter alia empowers the Board of TFAI to impose any of the penalties specified in Rule 25 (which includes penalties from censure to Dismissal), without holding an inquiry if the Board is satisfied for reasons to be stated in writing that it is not practicable to hold such inquiry or in the interest of the security of the Authority it is not expedient to hold such inquiry. This provision overrides the need to hold a departmental inquiry under Rules 27 to 29 of the Rules. The Board in the impugned orders of dismissal has assigned three reasons in support of its decision that is not practicable to hold an inquiry, namely

> "(i) you by yourself and together with and throughout other associates have threatened, intimidated and terrorised the Disciplinary Authority so that it is afraid to direct the inquiry to be held;

(ii) you the employee of Trade Fair Authority of India particularly through and together with your associates have terrorised and threatened and intimidated witnesses who are likely to give evidence against you with fear or reprisal as to prevent them from doing so; and

(iii) an atmosphere of violence and of general indiscipline and insubordination has been created by a group of suspended employees".

The Board has also stated in the impugned order that it is not expedient in the interest of security of the TFAI to hold an enquiry in the manner provided by the Rules. Annexure I to each order sets out the reasons which impelled the Board to visit the 12 employees with the extreme penalty of dismissal. These 12 dismissed workers have challenged the orders of dismissal by their Writ Petition No. 627 of 1987.

4. Writ Petition No. 452 of 1987 of by one Raju, an employee of TFAI. He was a casual labourer of TFAI since 1982 and was selected on July 4, 1986 as Mini-Stiller Driver in the scale of Rs. 260-400. He joined the new post on the same day but his appointment was cancelled without assigning any valid reason on July 25, 1986 and he was reverted as a daily wager. He too had joined the others for regularisation of his service and had taken part in the strike. The management by office order dated March 2, 1987 terminated his services w.e.f. December 1, 1986. No inquiry was held nor was any opportunity to explain his conduct given to the delinquent before his services came to be terminated. He has, therefore, challenged the order dated July 25, 1986 and the subsequent order dated March 2, 1987 as violative of the principles of natural justice.

5. Writ Petition No. 662 of 1987 concerns two daily rated Security Guards of TFAI whose service came to be terminated by TFAI. The service of Bansi Dhar came to be terminated on April 2, 1987 while that of his companion Vipti Singh came to be terminated on April 8, 1987. Their allegation is that their services were dispensed with because they refused to give false evidence against their co-workers who were active members of the Union and who had filed Writ Petition No. 271 of 1987 challenging the mala fide action TFAI terminating the services of 243 casual daily rated workers. They contend that even though they had remained on duty during the strike, their services were terminated because they refused to falsely implicate their co-workers who had espoused their cause. They, therefore, contend that their termination smacks of victimisation.

6. In all the writ petitions Mr. N. N. Kesar, Manager (Admn.) TFAI has filed his counter contending that as the petitions require collection of facts this Court should refuse to entertain these petitions and should relegate the petitioners to the industrial tribunal or the concerned High Court. According to the deponent TFAI had to take action against the office bearers of the Union as they had created an atmosphere of violence and had paralysed the smooth functioning of TFAI from November 1986 onwards. Instances of insubordination, threats, violence and lack of discipline have been enumerated to show that officers of TFAI found it difficult to carry out their functions and duties because of constant fear to themselves and their kith and kin. Even though permission for holding a General Body meeting on January 19, 1987 within the precincts of TFAI was refused, the meeting was held at which inflammatory and provocative speeches were made by the Union leaders. Extracts from the speeches of the various Union leaders have been set out in the counter to acquaint the court of the type of atmosphere that prevailed at a point of time when several important foreign delegates and VIPs were attending the International Fair held by TFAI. The secret reports which were received from the officers of TFAI at different levels also suggested that trouble was brewing and immediate firm action was necessary. Therefore, when the management learned that the employees had decided

to go on a token strike on January 21, 1987 it took action of suspending some of the office bearers of the Union. After the strike was prolonged up to January 23, 1987, TFAI had to make alternative arrangements including security arrangements to ensure that no untoward incident occurred during the visit of foreign VIPs and more particularly during the visit of the President of India who was to inaugurate the AHARA '87 on January 25, 1987. Even during the visit of the President certain employees posted themselves at the main gates along with the President, Vice-President, General Secretary and Secretary of the Union for picketing. Since certain other inaugurations by VIPs were to take place between January 28, 1987 and February 2, 1987, TFAI was constrained to file a suit No. 263 of 1987 in the Delhi High Court against the Union and seven office bearers to restrain them from preventing and obstructing the entry of delegates, guests, dignitaries, etc. into the Pragati Maidan where TFAI was having its fair. An ex-parte injunction was granted prohibiting picketing, slogan shouting, etc. within 75 meters of all gates leading to the Fair as shown in the map appended to the suit. It will thus be seen that according to TFAI the workers' agitation was not a peaceful one as in alleged by the petitioners. It was in the backdrop of these facts that the Board decided to terminate the services of the 12 employees by virtue of the power conferred on it by Rule 32 of the Rules. The reasons which impelled the Board to take this drastic action have been set out in the annexure appended to each order of dismissal. TFAI, therefore, contends that the action taken against, the 12 erring workers is just, legal and proper and this court should refuse to interfere with the same. So far as the suspended employees are concerned TFAI contends that it has power under Rule 22 of the Rules to suspend erring delinquents pending inquiry. Such suspended employees are entitled to suspension allowance paid to 50 per cent of salary and allowances. It is denied that TFAI has used the power of suspension as a coercive measure. It is however stated that the correct number of suspended employees is 34 as named in the counter. Out of these 34 employees, the suspension orders of 33 workmen have since been revoked on acceptance of their explanation. Hence the suspension order that survives is against Peon Umed Singh only, who is receiving suspension allowance as per rules.

7. Insofar as the casual labour is concerned it is contended that TFAI had taken over the maintenance of Pragati Maidan from CPWD w.e.f. January 1983. The Standing Committee had, therefore, sanctioned a certain number of posts of the Engineering staff for this purpose. A number of daily wage posts on muster roll were created from time to time and were filled in by both skilled and unskilled labour. A proposal for regularising such employees was pending before the Standing Committee which had called for information. It was however tentatively decided that 85 posts may be considered urgently for regularisation. This proposal was cleared in January, 1987. The matter was pending with the Internal Works Study Unit in the Ministry of Commerce and their report was awaited. It was, therefore, contended that TFAI was always sympathetic in its approach and yet the Union gave a call for a strike on January 19, 1987. The TFAI denies that it did not provide work to casual labour when they reported on January 24, 1987 or thereafter or that they demanded any such undertaking as alleged.

8. As regards the termination of Raju's service it is contended by TFAI that he was given a provisional appointment on July 4, 1986 but the same had to be terminated on July 25, 1986 firstly because it subsequently came to light that he was convicted on June 30, 1986 under Sections 87 and 113 of the Motor Vehicles Act and fined Rs. 300 and secondly because of his outrageous behaviour with his dealing assistant on July 22, 1986. These two reasons 'formed the basis and the grounds and the administrative reasons' for withdrawal of the provisional offer made in the letter of July 4, 1986. However, the letter of July 22, 1986 uses the words 'some administrative reasons' for cancellation of the offer and the impugned order of March 2, 1987 gives no reason whatsoever. It is therefore, contended that since the offer was only provisional, the petitioner had no right to the post and hence

the petition deserves to be dismissed.

9. So far the termination of service of the two Security Guards is concerned it is contended that the allegation that their services were dispensed with because they refused to co-operate with the management and give evidence against their co-workers is denied. It is, therefore, contended that their petition is without merit.

10. When these petitions reached hearing before this Court on October, 13, 1987, this Court passed a common order directing the Chief Secretary of Delhi Administration to spare the services of a Judge of the Labour Court to look into the facts of these cases and finalise its report so as to reach the Registry of this Court on or before December 18, 1987. Since the inquiry could not be finalised within the time allowed the time was extended up to October 31, 1988. Shri Bhola Dutt, Presiding Officer, Labour Court (VII) submitted his report on October 29, 1988. Before finalising its report the Labour Court gave an opportunity to the contesting parties to file their pleadings. Issues were framed thereafter, parties were permitted to lead oral and documentary evidence, counsel were heard on the evidence tendered and only thereafter the Labour Court recorded its findings. It came to the conclusion that the 243 casual labourers had been doing conservancy work since several years and all of them were denied work when they reported for duty on January 24, 1987 and thereafter because the work of Safai Kamdars was handed over to MCD w.e.f. January 22, 1987. It however came to the conclusion that denial of work of all the 243 casual workers was not justified. So far as the only suspended employee, Peon Umed Singh, is concerned, the Labour Court opined that mere participation in the strike called by the Union would not furnish a sufficient cause to order large scale suspension of employees much less termination of their employment. Since 33 of his colleagues similarly suspended were taken back in service there was no justification to single out Umed Singh for different treatment more so when no disciplinary action is initiated or contemplated against him. With regard to the termination of Raju driver's service, the Labour Court came to the conclusion that the management had acted in an illegal manner. In the first place it was not possible to accept the reason that during the summer season there is paucity of work and hence the provisional offer made on July 4, 1987 had to be cancelled within twenty days on July 25, 1987. It found it difficult to believe that within such a short period there was a slump in work necessitating cancellation of the order. As to the second reason regarding his conviction under the Motor Vehicles Act it pointed out that the allegation that he had abused Amar Singh was not inquired into and the delinquent was not given an opportunity explain his conduct. Certain other allegations by the management regarding his behaviour e.g. absence without prior intimation, etc., all amount to misconduct for which a departmental enquiry was necessary and in the absence of such an enquiry the order was unsustainable. It, therefore, held that the termination of Raju's service was illegal.

11. The case of the two security guards has been dealt with in detail by the Labour Court. The Labour Court points out that the management decided to refuse work to Bansi Dhar as his performance was not found to be satisfactory. He was served with memos dated December 25, 1984, February 10, 1986 and February 20, 1987 with a warning to improve his performance failing which the management would be constrained to refuse work to him. The note submitted by the Chief Security Officer on March 3, 1987 that his termination may be considered if he is found absent or indisciplined in future is indicative of the fact that the management desired to give him an opportunity to improve. Nothing had happened between March 3, 1987 and April 2, 1987 to warrant the termination of his service. The Labour Court, therefore, held that the termination of his employment by the order of April 2, 1987 was not sustainable. As regards his companion Vipti Singh the management pointed out that apart from the fact that his service was not satisfactory as is reflected by the memos of August 14, 1985 and October 20, 1986, he was found to have signed the

attendance register from March 23, 1987 to March 29, 1987 even though he was admittedly absent on those days. The Labour Court examined this ground in detail and came to the conclusion that even though the workman had signed his presence on those dates, some doubt arose on account of absence of cross marks in the register. The Labour Court, therefore, came to the conclusion that the termination of the service was also not justified.

12. Taking note of the fact that the Union was demanding the upward revision of wages of non-executive staff, housing facility and regularisation of casual labour and the management's failure to accede to the demands notwithstanding the meetings held on August 29, 1986, November 3, 1986 and January 19, 1987, the Labour Court came to the conclusion that the strike was legal and justified, peaceful and non-violent and for a duration of only three days. The Labour Court also came to the conclusion that there was no justification for resorting to the exercise of extraordinary powers under Rule 32 of the Rules. In the view of the Labour Court participation in strikes and slogan shouting are part of trade union activity and hence it was not legal and proper to visit the 12 Union leaders with the extreme punishment of dismissal from service. It, therefore, held that their dismissal was illegal, unjustified and wholly arbitrary.

13. All the above findings of the Labour Court have been assailed by the TFAI in the objections to the report. It is not necessary for us to indicate in detail the nature of the objections but suffice it to say that according to the TFAI the findings reached by the Labour Court are one-sided, perverse and contrary to the evidence on record. We have perused the objections as well as the reply filed thereto by the petitioners.

14. From the above resume it clearly emerges that the charter of demands put forth by the Union was pending consideration. The main demands were three in number, namely, (i) for upward revision of wages (ii) for regularisation of services of casual labour and (iii) for providing housing facilities to the employees. Efforts to settle these pending issues through negotiations were made at the level of the Chief General Manager and it appears that this response was not negative. It appears that the question of regularisation of casual and daily rated workers was referred to the Standing Committee of the Board which had taken the tentative decision to create 85 posts on the regular establishment for regularisation. This proposal was forwarded to the IWS unit of the concerned Ministry for approval. However since the final decision was delayed the Union leaders became restive. The Union representatives, therefore, decided to call a General Body Meeting to decide on the future course of action. On January 15, 1987 it wrote to the management to permit it to hold a meeting on January 19, 1987. Notwithstanding the refusal of the permission the Union was compelled to hold the meeting as it had informed its members and it was not possible to shift venue at short notice. The angered leaders who addressed the workers condemned the management's action in refusing to solve the outstanding problems of the workers in strong language. We have perused the extracts from their speeches on Which TFAI relies. The language used is no doubt harsh and it would have been proper if such language had been avoided.

15. Counsel for TFAI also strongly contended that since the strike was illegal the workers are not entitled to any relief. We see no merit in this submission. The right to form associations or unions is a fundamental right under Article 19(1)(c) of the Constitution. Section 8 of the Trade Unions Act provides for registration of a trade union if all the requirements of the said enactment are fulfilled. The right to form associations and unions and provide for their registration was recognised obviously for conferring certain rights on trade unions. The necessity to form unions is obviously for voicing the demands and grievances of labour. Trade unionists Act as mouthpieces of labour. The strength of a trade union depends on its membership. Therefore, trade unions with sufficient

membership strength are able to bargain more effectively with the managements. This bargaining power would be considerably reduced if it is not permitted to demonstrate. Strike in a given situation is only a form of demonstration. There are different modes of demonstrations, e.g., go-slow, sit-in, work-to-rule, absenteeism, etc., and strike is one such mode of demonstration by workers for their rights. The right demonstrate and, therefore, the right to strike is an important weapon in the armoury of the workers. This right has been recognised by almost all democratic countries. Though not raised to the high pedestal of a fundamental right, it is recognised as a mode of redress for resolving the grievances of workers. But the right to strike is not absolute under our industrial jurisprudence and restrictions have been placed on it. These are to be found in Sections 10(3), 10-A(4-A), 22 and 23 of the Industrial Disputes Act, 1947 ('ID Act' for short). Section 10(3) empowers the appropriate government to prohibit the continuance of a strike if it is in connection with a dispute referred to one of the for a created under the said statute. Section 10-A(4-A) confers similar power on the appropriate Government where the industrial dispute which is the cause of the strike is referred to arbitration and a notification in that behalf is issued under Section 10-A(3-A). These two provisions have no application to the present case since it is nobody's contention that the Union's demands have been referred to any forum under the statute.

16. The field of operation of Sections 22 and 23 is different. While Section 10(3) and Section 10-A(4-A) confers power to prohibit continuance of strike which is in progress, Sections 22 and 23 seek to prohibit strike at the threshold. Section 22 provides that no person employed in a public utility service shall proceed on strike unless the requirements of clauses (a) to (d) of sub-section (1) thereof are fulfilled. The expression 'public utility service' is defined in Section 2(n) and indisputably TFAI does not fall within that expression. Section 23 next imposes a general restriction on declaring strikes in breach of contract during pendency of (i) conciliation proceedings, (ii) proceedings before Labour Court, Tribunal or National Tribunal, (iii) arbitration proceedings (iv) during the period of operation of any settlement or award. In the present case no proceedings were pending before any of the aforementioned fora nor was it contended that any settlement or award touching these workmen was in operation during the strike period and hence this provision too can have no application. Under Section 24 a strike will be illegal only if it is commenced or declared in contravention of Section 22 or 23 or is continued in contravention of an order made under Section 10(3) or 10-A(4-A) of the ID Act. Except the above provisions, no other provision was brought to our attention to support the contention that the strike was illegal. We, therefore, reject this contention.

17. The next question is whether the material on record reveals that the office bearers of the Union had given threats to officials of TFAI as alleged. The Labour Court has negatived the involvement of office bearers of the union in giving threats either in person or on telephone. We have perused the evidence on record in this behalf and we are inclined to think that there were angry protests and efforts to obstruct the officers from entering the precincts of TFAI but there is no convincing evidence of use of force or violence.

18. From what we have discussed above we are of the view that although TFAI was sympathetic to regularisation of service of the casual workers, since the proposal had to pass through various levels it was not possible to take an early decision in the matter. It was held up in the Ministry for which TFAI could not be blamed. So also the proposal to revise the wages of non-executive staff was under consideration since some time. However, the Union leaders lost patience and took a decision to proceed on strike on the eve of the President's visit to TFAI. This action of the Union impelled TFAI to make alternative arrangements. It, therefore, dismissed the 12 Union leaders invoking Rule 32 of the Rules.

19. On going through the material placed before the Labour Court, we feel that the criticism levelled by TFAI that it exceeded its brief and has betrayed a somewhat one-sided approach cannot be said to be wholly misplaced. We have, however, looked to the bare facts found by it. We are however disinclined to analyse the evidence before the Labour Court because we are of the view that even though TFAI was not averse to the demands of labour it could not take a final decision at an early date for want of approval from the concerned Ministry. This angered the Union representatives more particularly because the executive staff was granted upward revision of salary, allowances, etc., and hence they decided to call a meeting of the general body to decide on the future course of action. In their frustration they decided to put pressure by proceeding on strike. During the strike period certain events happened which we wish were avoided. But fortunately nothing destructive, meaning thereby damaging to the property of TFAI, took place. A few brushes and exchange of strong words appear to have taken place which are described as threats by the management. The vast mass of labour was only responding to the call of the Union. Even the union representatives were acting out of frustration and not out of animosity for the officers. The facts of this case, therefore, demand that we appreciate the conduct of both sides keeping in mind the prevailing overall situation. While the workers were frustrated for want of an early solution, the management was worried because of the impending visit of the President on January 25, 1987. Instead of trying to lay the blame at the door of either party, which would only leave a bitter taste for long, we think we should resolve the crisis in the larger interest of the institution.

20. Taking an overall view of the facts and circumstances which emerge from the oral as well as documentary evidence placed on record, we are of the opinion that while some of the Union leaders acted in haste, they do not appear to have been actuated by any oblique motive. The management also took action against the workmen not because it was unsympathetic towards their demands but because of the anxiety caused to them on account of untimely action taken by the Union only a few days before the President's scheduled visit to the Fair. The management also felt hurt as its reputation was at stake since several dignitaries from abroad were participating in the Fair. Its action must, therefore, be appreciated in this background.

21. The interest of the institution must be paramount to all concerned including the workmen. At the same time Court cannot be oblivious to the economic hardships faced by labour. We have already pointed out earlier how both parties reacted to the tense atmosphere that built up over a period of time. The facts found by the Labour Court clearly show that while the labour was frustrated as its demands were outstanding since long and they were finding it difficult to combat the inflation without an upward revision in wages, etc., the management was worried about TFAI's reputation likely to be lowered in the eyes of visiting dignitaries because of certain events that were happening due to the workers' agitation. In these circumstances it would be unwise and futile to embark upon a fault finding mission.

22. Keeping the interest of the institution in mind and bearing in mind the economic hardships that the labour would suffer if the impugned orders are not set aside, we think that it would be desirable to restore the peace by directing the reinstatement of the workers. However, so far as the case of the Security guard Vipti Singh is concerned, we are constrained to say that the material on record does disclose that he had signed the attendance register showing his presence from March 23, 1987 to March 29, 1987 even though he was in fact absent on those days. His explanation in this behalf is far from convincing. We are, therefore, of the opinion that he deserves punishment, but not the extreme punishment of dismissal from service. We think that the ends of justice would be met if we direct his reinstatement without back wages.

23. So far as the case of driver Raju is concerned, it must be pointed out that the management cancelled the offer of July 4, 1986 by the letter of July 25, 1986 because of his conviction under Sections 87 and 113 of the Motor Vehicles Act and his so-called outrageous behaviour with the dealing assistant on July 22, 1986. These being clearly acts of misconduct, the action of the management must be held to the penal in nature and cannot be sustained as it was taken without hearing the delinquent. To hold an enquiry against him at this late stage is not desirable.

24. In the result all writ petitions are allowed and the rule is made absolute in each case to the extent indicated hereinafter. The management will prepare a list of casual/daily rated workers who were its employees prior to the strike on January 21, 1987 in accordance with their seniority, if such a list does not exist. TFAI will provide them work on the same basis on which they were given work prior to the strike. After the seniority list is prepared TFAI will absorb 85 of the seniormost casual workers in regular employment pending finalisation of the regularisation scheme. TFAI will complete the regularisation process within a period of 3 months from today. TFAI will determine the number of casual employees who would have been employed had they not proceeded on strike. The wages payable to such casual employees had they been employed for the period of 6 months immediately preceding the date of this order will be worked out on the basis of actual labour employed and the amount so worked out will be distributed amongst the casual employees who report for work in the next three months after TFAI resumes work to casual labour. Peon Umed Singh, security guard Bansi Dhar and driver Raju will also be reinstated in service forthwith. They too will be paid back wages (less suspension allowance, if any) for a period of 6 months immediately preceding this order. So far as driver Raju is concerned he will be absorbed in regular service as per the offer made in the letter of July 4, 1987 disregarding the subsequent communication of July 25, 1986. The security guard Vipti Singh will also be reinstated in service but without back wages. In the case of the 12 dismissed workers we are, on the facts placed before us, of the view the circumstances did not exist for the exercise of extraordinary powers under Rule 32 of the Rules. The orders terminating the services of the 12 Union representatives are therefore set aside and they are ordered to be reinstated in service forthwith back wages covering a period of 6 months immediately preceding the date of this order. They should be reinstated forthwith. In view of the above directions no further order is required on the CMP. TFAI will pay Rs. 5,000 in all by way of costs to the Union.

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