

Union of India & Ors.

Vs

M. Dharani & Ors.

(Sujata V. Manohar, V. N. Khare JJ)

08.06.1997

JUDGMENT

MRS. SUJATA V. MANOHAR, J.

1. This is an appeal from a judgment and Order of Central Administrative Tribunal, Ernakulam Bench, dated 23.4.1993. The respondents, who are four in numbers, were engaged as tracers. According to the appellants, they were appointed in short-term vacancies either against leave vacancies or to meet additional commitments of urgent, nature of the Navy. The respondents were so employed in the Directorate of Installation, Naval Training, Cochin. Respondents 1 to 4 were engaged for the first time on 18.10.1984, 5.2.1986, 18.8.1986 and 3.11.1986 respectively. They were continued in employment with breaks in service. Their services were regularised with effect from 30th August, 1991 on terms and conditions set out in the latter granting them regularisation. The respondents moved the Central Administrative Tribunal, Ernakulam Bench, claiming regularisation from their date of initial appointment as casual workers and for all consequential benefits. Their application is allowed. Hence this appeal.

2. Under Ministry of Defence letter No.3(3)/65/118203 dated 26th of September, 1966, as amended from time to time, the terms and conditions under which the service of casual employees could be regularised were set out. Under Clause (a) of that letter non-industrial personnel who had been employed for more than one year without break should be converted into regular employees with effect from the date of their initial employment as casual employees if the commandants etc. are satisfied that their services will be required on a long term basis. The terms and conditions of regularisation of service of casual non-industrial employees were further laid down in the Ministry of Defence letter dated 24th of November, 1967. Clause 2 of this letter sets out that the past service rendered from the date of appointment by such of the casual non-industrial personnel who are converted as regular non-industrial employees, will be treated as having been rendered in the regular capacity. However, by a further letter from the Ministry of Defence (Corrigendum) dated 27th of May, 1980, amendments were made, inter alia, in clause 2 of the letter of 24th November, 1967. Clause 2 of the letter of 24th of November, 1967 as amended provided that on regularisation the employees will be entitled to all benefits as for regular employees excepting seniority, probationary period and grant of quasi permanent status which aspect will be regulated under orders issued from time to time. Service rendered on casual basis prior to appointment on regular basis shall not count for seniority. Thus after the letter of 27th of May, 1980, on regularisation, for determining the seniority of employees whose services were regularised, their service as casual employees could not be taken into account. All these letters were superseded by letter of 31st of January, 1991 issued by the Ministry of Defence. It said that henceforth, the terms and conditions of employment of casual labour and regularisation of these services will be done on conditions laid down in the letter of

31.1.1991. The revised instructions which would govern such regularisation are set out therein. Under Clause 3, the regularisation of service of non-industrial casual personnel already appointed shall be regulated as laid down in that clause. Sub-clauses (f) and (g) of Clause 3 are as follows:

"(f): Seniority of employees appointed to regular establishments will be reckoned with only from the date of regular appointment.

(g): Service rendered on casual basis prior to appointment in regular establishment shall not be counted for the purpose of pay fixation etc."

Pursuant to the policy of regularisation laid down in this letter of 31.1.1991 the respondents were absorbed in regular service with effect from 30th of August, 1991. The order absorbing these four respondents in regular service clearly sets out that their seniority in the grade of tracers will commence from the date of their regularisation. Clause 3 of this letter further provides that service rendered on casual basis prior to appointment in regular establishment shall not be counted for the purpose of pay fixation etc. The respondents have thus been regularised in accordance with the existing policy of regularisation and on terms and conditions set out in that policy. In view of the clear terms of this policy, the Tribunal was not justified in granting to the respondents the benefit of seniority from the date of their initial employment as casual workers; nor was the Tribunal justified in granting to the respondents all consequential benefits. The Tribunal has relied upon an earlier decision of the Full Bench of the Tribunal in A. Ramakrishnan Nair & Ors. Vs. Union of India & Ors. [(1991) 15 Admn. Tribunals Cases 897] which, however, was concerned with regularisation of casual employees in accordance with the Ministry of Defence letter dated 24.11.1967. The Tribunal, however, has failed to note that the present regularisations are not under the Defence Ministry's letter of 24th of November, 1967. The scheme of regularisation applicable to the respondents is as laid down in the letter of Ministry of Defence of 31.1.1991 which contains terms and conditions somewhat different from those earlier provided. In view of the express scheme of regularisation as contained in the letter of 31.1.1991, the Tribunal was not justified in giving the above directions.

3. The respondents also drew our attention to a letter of 26th of June, 1995 issued by the Ministry of Defence under which judgments of the Central Administrative Tribunal, New Bombay Bench in applications which are mentioned therein, were implemented. The letter states that the question of extending the benefits of the above judgments to non-petitioners who are similarly placed has also been considered by the Government in accordance with Central Administrative Tribunal's directives and it has been decided to implement the Central Administrative Tribunal, Bombay's directions. This letter, however, refers to applications made in 1988 before the Central Administrative Tribunal, New Bombay Bench. The judgments of the Central Administrative Tribunal, New Bombay Bench have not been produced before us and we are not in a position to consider whether any directions given in those judgments would be applicable to the respondent herein or not. Hence we can only observe that if the respondents are entitled to the benefit of the letter of 26th of June, 1995 they will be entitled to make a representation to that effect before the appropriate authority who will decide the same in accordance with law.

4. The appeal is, therefore, allowed. There will, however, be no order as to costs.