

Mohd. Ghani and Others

Vs

National Geophysical Research Institute and Others

Civil Appeal No. 11866 of 1995

(K. Venkataswami, A. P. Mishra JJ)

05.03.1998

ORDER

1. This appeal by special leave is directed against the judgment of the Central Administrative Tribunal, Hyderabad Bench, in OA No. 175 of 1990 dated 22-2-1993. The appellants were working as casual workers continuously for more than 15 years under the first respondent. They were paid not even the minimum of the pay scales prescribed by the Government for a regular employee. After the judgment of this Court in Surinder Singh v. Engineer-in-Chief, CPWD [(1986) 1 SCC 639 : 1986 SCC (L&S) 189] the 2nd respondent in his office memorandum dated 15-4-1988 passed an order giving the appellants the wages of regularly employed workers in the corresponding cadre without any increment from 1-1-1986.

2. Subsequently, the Union Government by an order dated 7-6-1988 reviewed the policy of recruitment of casual workers and persons on daily wages and fixed the daily wages of the casual workers at the rate of 1/30th of the minimum of relevant pay scale plus appropriate DA. The 2nd respondent-Director on receipt of the policy decision of the Union of India by another OM dated 20-2-1990 modified his earlier OM dated 15-4-1988 and held that the casual employees should be paid the minimum of the pay scale of a regular employee only from 7-6-1988. Consequent to that, the 2nd respondent also directed recovery of the excess amount paid from 1-1-1986 to 6-6-1988.

3. Aggrieved by that, the appellants moved the Tribunal for quashing the order of the first respondent dated 20-2-1990.

4. The Tribunal was of the view that the 2nd respondent had no jurisdiction to fix wages on his own to the casual workers on the basis of the judgment of this Court and it is for the Union Government to take a policy decision for giving effect to the said judgment. On that ground, the Tribunal declined to interfere with the order passed by the first respondent on 20-2-1990. Aggrieved by that, the present appeal is preferred.

5. Learned counsel for the appellants, placing reliance on the judgment of this Court in Surinder Singh [(1986) 1 SCC 639 : 1986 SCC (L&S) 189] contended that the Tribunal was not right in declining to interfere with the modified order of the 2nd respondent directing the wages to be paid to the appellants only from 7-6-1988 and further directing recovery of difference of wages paid from 1-1-1986 to 6-6-1988. According to the learned counsel that on the basis of the judgment of this Court, the casual workers are entitled to regular wages right from the date of their employment and not from 1-1-1986 as ordered by the first respondent. That being the law declared by this Court, the Tribunal erred in not quashing the impugned order dated 20-2-1990.

6. Even though notice was issued to the Union of India, nobody entered appearance to contest the case.

7. The learned counsel appearing for the first and 2nd respondents submitted that in the light of the policy decision taken by the Union of India on 7-6-1988 revising the wages for casual workers, the 2nd respondent felt bound by it and his order was based on that policy decision of the Government of India.

8. We are of the view that in the light of the judgment of this Court in Surinder Singh case [(1986) 1 SCC 639 : 1986 SCC (L&S) 189] the policy decision taken by the Government of India regarding wages payable to casual workers cannot be construed to be effective from 7-6-1988 only regardless of direction of this Court in Surinder Singh case [(1986) 1 SCC 639 : 1986 SCC (L&S) 189]. Accordingly, we quash the order of the first respondent dated 20-2-1990 insofar as it directs modification of OM dated 15-4-1988 and recovery of the excess amount paid to the appellants. The appellants are entitled to the wages as fixed by the Union of India in its order dated 7-6-1988 from 1-1-1986.

9. The appeal is allowed. However there will be no order as to costs.