

# SUPREME COURT OF INDIA

Food Corporation of India

Versus

Shyamal K. Chatterjee

( S. Rajendra Babu and D.P. Mohapatra, JJ.)

Civil Appeal Nos. 6064-65 of 1998.

28.09.2000

## JUDGMENT

**S. Rajendra Babu, J.** - The respondents, who are contract casual workers, filed a writ petition before the High Court contending that in view of the order of the High Court dated August 13, 1993 in FMAT No. 3614 of 1992, they are entitled to wages on par with class IV employees of the appellant and sought for directions to make such payment as per the pay revised from time to time. The appellant opposed the claim made in the writ petition on the ground that against the order of the Calcutta High Court in FMAT No. 3614 of 1992, an appeal by special leave was filed before this Court which was disposed of with certain observations. The order of the High Court in FMAT No. 3614 of 1992, having merged in the order of this Court and this Court having not specifically stated that the wages payable to the respondents would be on par with class IV employees of the appellant, the payment of wages as claimed by the casual workers is untenable.

2. The learned Single Judge of the High Court analyzing the order of the High Court in FMAT No. 3614 of 1992 and the order of this Court concluded that this Court having affirmed the reasoning of the Division Bench and there is no conflict thereto. The appellant appears to be piqued by the fact that the casual workers have to be paid at the enhanced wages of the class IV workers and they have no objection to pay at the old rates at which they had been paid. The contention that the casual workers cannot be put on par with the workers in the regular service was not allowed to be raised in view of the fact that the issue had been determined finally between the parties *inter se*, by the orders made in the earlier proceedings. Thus, the learned Single Judge allowed the writ petition. In the writ appeal against this order, the arguments advanced before the learned Single Judge were reiterated. The Division Bench again examined the contentions of the appellant with reference to the orders of the High Court and of this Court in the earlier proceedings and held that the view taken by the learned Single Judge is justified and didn't interfere with the same except to reduce the period for compliance.

3. In this appeal, the learned counsel for the appellant submitted that a careful analysis of the reasoning of this Court's order would indicate that what was observed was that there should be no disparity between the different kinds of casual workers and no other reasoning had been given in the said order and inasmuch as the

payments had been made on a certain basis, that position was not disturbed, which means that they would not be entitled to enhanced payments given to the class IV employees. It is submitted that there has been no enquiry at all as to the parity between the class IV employees and the casual workers. We will examine each of these contentions. On the earlier occasion, materials had been placed before the Court in the shape of a letter sent by Shri S.N. Singh, Officer on Special Duty, Labour Department, Government of West Bengal, to the following effect :

"I am directed to refer to your letter No. F/34/18/5/79 dated 1.6.1979 on the above subject and to say that minimum rates of wages in respect of office establishments employees have not yet been fixed under the Minimum Wages Act, 1948. There is, therefore, no statutory minimum rates of wages for such employees. The minimum rates of wages fixed under the Minimum Wages Act, 1948 for employees employed in organised sector are allowed to persons employed either as a badli or on casual or temporary basis. The rate is for the job and not for the person. The nature of the employment doesn't in any way influence the rates of wages of casual and temporary workmen even in Government undertaking and establishment.

On the basis of the aforesaid principle the daily rate of casual workers should be 1/26th of the monthly wages of class IV employees."

4. With regard to the nature of the work performed by the respondents as casual workers, the Assistant Department Manager of the appellant at Bankura issued the following certificate :

"Certified that 59 casual labourers are working under M.R.M./F.S.D. Bikna since 1976. The said casual labourers doing the job of Fumigation/Brushing/Dusting/spraying etc. which are actually the work of class IV staff. They are doing their job with satisfaction of F.C.I. and they have gathered sufficient knowledge about the work they person (perform ?) as stated above."

5. The letter of the Labour Department and the certificate issued by the Assistant Department Manager of the appellant at Bankura are in conformity with Rule 25(2)(v)(a) of the Central Rules framed under Contract Labour (Regulation and Abolition) Act, 1970. These two materials clearly indicate that the respondents were doing the job, which is on par with the work of class IV employees. Further the wages to be payable to them on daily rate would be 1/26th of the monthly wages of the class IV employees. These materials were available before the High Court at the time of disposal of FMAT No. 3614 of 1992 and at the time when an interim order was granted in yet another proceeding wherein this principle was adopted. Therefore, the grievance sought to be made out by the learned counsel for the appellant that there has been no inquiry as to parity with regard to class IV employees and the wages payable to the casual workers is palpably incorrect and is not borne out by record at all.

6. This Court on the earlier occasion, after setting out certain principles that there should be no distinction amongst different classes of workers, observed as under :

"We are satisfied that in the facts and circumstances of the present case, no

interference is called for by this Court. We, however, make it clear that we are not adjudicating in respect of any other right or claim of the respondents. Accordingly, the appeal is dismissed. But in the facts and circumstances of the case (there) should be no order as to costs."

7. Further, the High Court had given a finding that since some casual workers appointed directly by the appellant and some employed by the contractors are working in the same godown and on the same work, there could not be any scope for making any difference and to deny equal pay for equal work. Proceeding further it was stated that on the principles set out earlier with reference to the letter of the Labour Department, the wages will have to be paid regularly to the respondent at the same rate at which it was paid to the regular employees of the appellant doing identical work which has to be worked out on daily rate basis from March, 1989. This was the order that was affirmed by this Court and was not interfered with. It is difficult for us to comprehend on what basis the appellant can make any complaint now except to engage themselves in nit-picking and being over ingenious in making submissions before the Court. The position is, therefore, clear to the effect that this appeal is misconceived and deserves to be dismissed with costs, quantified at Rs. 10,000/-.

Appeal dismissed.