

(1991) 09 GAU CK 0012

In the Gauhati High Court

Case No : Civil Rule Nos. 10 (SH), 11 (SH), 41 (SH), 42 (SH) and 43 (SH) of 1989

Bimal Roy ; Faizur Rahman ; Pancham Bali Basfer ; Biju Deb : Harendra Chakaraborty

APPELLANT

Vs

Food Corporation of India

RESPONDENT

Date of Decision : 06-09-1991

Acts Referred:

Administrative Tribunals Act, 1985 — Section 14(i)(b), 14(i)(b)

Citation : (1991) 2 GLJ 337 : (1992) 1 GLR 78

Hon'ble Judges : R.K.Manisana Singh, J and J.Sangma, J

Bench : Division Bench

Advocate : R.K.Purkayastha, B.Endow, H.Ahmed, Advocates appearing for Parties

Judgement

R. K. Manisana, J.—These five writ petitions, namely, Civil Rule Nos 10 (SH) 89, 11 (SH) 89, 41 (SH)89, 42 (SH) 89 and 43 (SH) 89, are disposed of by this common judgment as the question of facts and law raised in these petitions are similar.

2. The case of the five petitioners, namely, (1) Bimal Roy, (2) Faizur Rahman, (3) Smti Pancham Bali Basfer, (4) Biju Deb and (5) Harendra Chakraborty is that they have been working as daily rated casual labour in the Food Corporation of India, for short, "the FCF. They are unskilled labourers. They were engaged thus, Bimal Roy as water carrier from 17.12.82; Faizur Rahman as messenger from 30.11.83; Smti Pancham Bali as sweeper from 1.4.85; Biju Deb as water carrier from 7.2.87 and Harendra Chakraborty as messenger from 7,8.86.

The plea of the petitioners is that notwithstanding the fact that they have put in continuous service for a quite long period, they have not been treated as temporary servant and were applied discriminatory wages. The petitioners submitted representation to the respondents for their regularisation, but to no avail. Although five persons named in the writ petitions, who were appointed

later than the petitioners to the similar posts held by the petitioners, have been regularised, the petitioners have been denied. The petitioners state that are still in their services.

3. Mr. R. K. Purkayastha, learned counsel for the FCI, has contended that the present dispute is within the jurisdiction of the Central Administrative Tribunal under section 14 (1) (b) of the Administrative Tribunal Act, 1985 and, therefore, the petitions under Article 226 of the Constitution are not maintainable.

4. The question which arises for consideration is whether an employee of the FCI seeking regularisation of his service in the FCI will be governed by section 14 (1) (b) of the Act.

5. The FCI is a statutory body established under section 3 of the Food Corporation Act, 1964. A reading of Food Corporation Act makes it clear that the FCI is a Corporation owned or controlled by the Central Government. Under section 12 of the Food Corporation Act. the officers and employees of the FCI (other than Secretary of the FCI are to be appointed by the Corporation.

6. Section 14 (1) of the Administrative Tribunals Act provides : "14(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercises, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to

(a) recruitment, and matters concerning recruitment, to any All India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being in either case, a post filled by a civilian;

(b) all service matters concerning

(i) a member of any All India Service; or

(ii) a person [not being a member of an All India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian [not being a member of an AllIndia Service or a person referred to in clause (c)] appointed to any defence service at a post connected with defence; and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any Corporation (or society) owned or controlled by the Government;

(c) all service matter^ pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in subclause (ii) or subclause {iii) of clause (b) being a person whose services have been placed by a State Government or any local or other authority or any Corporation (or society) or other body at the disposal of the Central Government

for such appointment." (emphasis added)

On reading of section 14 (1) (b), in so far as it relates to a Corporation it shows that the Administrative Tribunal shall have its jurisdiction in relation to all (service matters concerning any or the civil servants falling under any of subclauses (i), (ii) and (iii) and pertaining to service in connection with the affairs of the Corporation owned or controlled by the Government.

7. It has already been stated that the FCI is a Corporation owned or controlled by the Central Government. It is also assumed that the regularisation of service of an employee of the FCI is within the meaning of "service matter" as is denned under section 3 (q) of the Administrative Tribunals Act. But, such a regularisation by the FCI will not come within any of the subclauses of section 14 (1) (b) for the following reasons. After the regularisation, although the service of the petitioners pertains to the service in connection with the affairs of the Corporation, any of them is not a member of All India Service under subclause (i) or, a person appointed in civil service of the Union or any civil post under the Union under subclause (ii), or, a civilian appointed to any defence service or a post connected with defence under subclause (iii). Therefore, the contention of Mr. Purkayastha cannot be accepted.

8. Coming to the case on hand, considering the principles laid down by Supreme Court in *Daily Rated Casual Labour vs. Union of India*, AIR 1987 SC 2342 and *Ram Kumar vs. Union of India*, AIR 1988 SC 904, we direct the respondents to regularise the service of the petitioners, which services would be suitable to them, within a period of three (3) months from today. If there was any break in their services, it would be deemed that there was no break.

9. With the aforesaid observations and direction the writ petitions are allowed and disposed of. No costs.