

(1996) 08 GUJ CK 0006

In the Gujarat High Court

Case No : S.C.A. No's. 4797, 5005 to 5062 of 1990 etc.

Khemchand R. Koshti and Others

APPELLANT

Vs

Abad Dairy

RESPONDENT

Date of Decision : 05-08-1996

Acts Referred:

Constitution of India, 1950 — Article 14, 226
Industrial Disputes Act, 1947 — Section 18(3), 2

Citation : (1997) 2 GLR 1204 : (1998) 3 LLJ 278

Hon'ble Judges : M.R. Calla, J

Bench : Single Bench

Advocate : K.R. Koshti, for the Appellant; Deepak V. Patel, for the Respondent

Judgement

M.R. Calla, J.—These 64 Special Civil Applications are based on identical facts and raise common questions of law and hence the same are decided by this common judgment and order.

2.The learned Counsel Dr. Sinha, Mr. Koshti, Mr. Patel and Mr. Raval have submitted that for the purpose of pleadings they would refer to the-pleadings and the documents contained in Special Civil Application Nos. 179 of 1995,249 of 1995 and 7744 of 1991 and, therefore, the references, which are made hereinafter to the pleadings, documents, etc., are taken from the Special Civil Application Nos. 179 of 1995, 249 of 1995 and 7744 of 1991.

3. There are 2 petitioners in Special Civil Application No. 179 of 1995, 46 petitioners is Special Civil Application No. 249 of 1995, 13 petitioners in Special Civil Application No.737 of 1995, 3 petitioners is Special Civil Application No. 8216 of 1995 and initially there were 59 petitioners in Special Civil Application No.4797 of 1990, but later on 58 separate one page petitions were filed as follow up petitions on behalf of 58 out of 59 petitioners in Special Civil Application No. 4797 of 1990 and these 58 petitions were registered as Special Civil Application Nos. 5005 of 1990 to 5062 of 1990. Besides it, there is one more Special Civil Application No. 7744 of 1991 in which there are eleven petitioners, all

represented through Dr. Mukul Sinha, Advocate.

4. As per the pleadings, the petitioners herein were appointed as Badli workers in Abad Dairy in the years 1979, 1982, 1983, 1984 and 1985. Abad Dairy was run by Ahmedabad Municipal Corporation till December 1979, but on December 29, 1979, the Abad Dairy was taken over by the Government and was then handed over to the Gujarat Dairy Development Corporation Ltd., and now the Abad Dairy is being run as a Unit of Gujarat Dairy Development Corporation.

5. Petitioners have made reference to policy decision No.334 dated December 29, 1978 taken by the Ahmedabad Municipal Corporation. According to this policy decision No. 334 dated December 29, 1978 at Annexure "B" page 18 in the Special Civil Application No. 179 of 1995, daily wagers, who were working in different Sections of the Engineering Department and who had completed 5 years of service prior to March 31, 1978 or those who had completed 900 days working in 5 continuous years at the rate of 180 days per year were to be made permanent from April 1, 1978. According to petitioners this document shows that this decision was taken to implement the Award in Reference (I.T) No. 179 of 1975. Under this policy decision, the daily wagers of various Sections under Engineering Department, who had already completed 5 years prior to March 31, 1978, were to be made permanent from April 1, 1978 and even thereafter, as and when any such daily wager, who completes 900 days working in continuous 5 years at the rate of 180 days per year, was to be made permanent as and when he completes 900 days as above. The learned Counsel for the petitioners referred to a settlement arrived at u/s 2(p) of the Industrial Disputes Act between the representatives of the Abad Dairy/Gujarat Dairy Development Corporation, Ahmedabad on one side and the representatives of the workmen, i.e., Gujarat Doodh Yojna (Milk Scheme) Karmachari Sangh, Ahmedabad on the other side on May 11, 1981. In para 3 of this settlement u/s 2(p) it was held out that the Dairy Development Corporation-Management had been informed on behalf of the employees that the salaries, wages and other facilities of the services of the employees of the Dairy have remained equivalent to the employees working in the Ahmedabad Municipal Corporation for many years and, therefore, in order to see that the salaries/wages and other facilities of the employees working in the Dairy remain equivalent to that of the employees working in the Ahmedabad Municipal Corporation permanently, both the parties agreed as above so that this question may not arise in future. Accordingly, it was decided that the wages/ salaries of the employees and other facilities made available to the employees working in the Dairy be made equivalent as in the present to the employees working in the Ahmedabad Municipal Corporation and in future too, be kept uniformed as has been mentioned in para 5 of this settlement u/s 2(p). In this settlement dated May 11, 1981 available at pages 14 to 17 in the Special Civil Application No. 179 of 1995, the conditions of settlement have been then enumerated and the condition No. 6 thereof is reproduced as under :

"In future, salaries and other facilities to the employees working in the Dairy shall be kept equivalent to pay-scales and facilities made available to the employees of the Ahmedabad Municipal Corporation".

6. The case of the petitioners, therefore, is essentially based on the policy decision No. 334 dated December 29, 1978 read with the settlement dated May 11, 1981 u/s 2(p) of the Industrial Disputes Act. On these premises the petitioners have come with the case that they were appointed as daily wager Badli workers in various Departments including the Engineering Department in the years 1979 and 1982 to 1985 and that having worked for more than 900 days in continuous 5 years at the rate of 180 days per annum they were entitled to the benefit of regularisation. It has been further pleaded that in pursuance of the Award of the Industrial Tribunal in Reference (I.T.) No. 179 of 1975 the respondent had regularised the services of several workmen of Abad Dairy and by way of illustration documents Annexure "D", "E" and "F" have been placed on the record of Special Civil Application No. 179 of 1995 and it has been sought to be demonstrated through these documents available at page Nos. 21 to 29 that one Shri I.N. Desai, who was appointed as a Badli worker in Production Department and who joined on March 5, 1982 was regularised from April 1, 1987 by the order dated July 20, 1987, one Shri T. K. Desai, who had also been appointed as a Badli worker in Production Section on March 3, 1982 had been regularised from April 1, 1987 by order dated July 20, 1987 and one Shri S. H. Bhimani, who was appointed as a Badli worker in Despatch Department on March 1, 1982 was declared permanent from April 1, 1987 vide order dated July 20, 1987. Besides these three cases, ten more such orders passed on different dates between June 28, 1985 to July 27, 1988 have been placed on the record of Special Civil Application No. 249 of 1995 by Mr. Koshti alongwith K. R. Koshti's additional affidavit dated April 2, 1996. Apart from it, Dr. Sinha has referred to the document Annexure XVI dated May 14, 1986 at page 74 in the Special Civil Application No. 7744 of 1991, i.e., a similar order in relation to one Shri Khalil Ahmed Shahzadda Pathan and copies of three more documents filed on April 11, 1996 in relation to one Shri Habeeb Khan Hussain Khan Pathan, i.e., his identity card and orders dated May 10, 1983 and September 17, 1984 to add to the examples. It is the case of the petitioners that the settlement arrived at u/s 2(p) of the Industrial Disputes Act is still operative and the learned Counsel for the petitioners has also placed reliance on the Circulars dated June 2, 1983 and August 16, 1984 issued under the signatures of the Chief Accountant of the Ahmedabad Municipal Corporation and the Deputy Municipal Commissioner (Administration) issued by the Central Office of Ahmedabad Municipal Corporation in which the policy with regard to the regularisation on the above lines on completion of 900 days has been reiterated.

7. On behalf of the respondent an affidavit-in-reply dated February 21, 1995 alongwith certain documents was filed in the first instance in Special Civil Application No. 249 of 1995 followed by an additional affidavit-in-reply dated July 14, 1995 and a further affidavit of one T. C. Vyas, Dy. Manager (Adm.) dated

March 29, 1996 and an additional affidavit dated April 2, 1996 was filed by K. R. Koshti (who is the original petitioner in Special Civil Application No. 4797 of 1990). In Special Civil Application No. 744 of 1991, in which the petitioners are represented by Dr. Sinha and respondent-Abad Dairy by Mr. Raval, after the issue of the Rule an affidavit dated December 2, 1992 was filed by the petitioner No. 1, namely, Mohamad Iqbal G. Shaikh alongwith certain documents, and an affidavit-in-reply dated December 28, 1992 was filed alongwith certain documents. A further affidavit-in-reply dated February 8, 1993 and one more affidavit-in-reply dated February 17, 1993 were filed alongwith certain documents and one of the petitioners, namely, Naresh M. Sohila filed an affidavit-in-rejoinder dated March 9, 1993 and lastly xerox copies of two documents were placed on record on behalf of the petitioners.

8. The respondent had not disputed the existence of the policy decision No. 334 as also the settlement u/s 2(p) dated May 11, 1981, but they have sought to traverse the claim Of the petitioners on the ground that the petitioners are temporary Badli workers and they are not covered by the said policy decision and the settlement u/s 2(p) of the Industrial Disputes Act. It is the case of the respondent that the petitioners are not covered by the Award which was passed in Reference (I.T.) No, 179 of 1975 on the basis of which the policy decision No. 334 was taken and it is also their case that this policy decision was only in respect of those employees who belonged to Engineering Section of the Ahmedabad Municipal Corporation. According to the respondent there is no nexus between the settlement u/s 2(p) and the policy decision No. 334 as the policy decision No.334 was taken by the Ahmedabad Municipal Corporation much prior to the settlement u/s 2(p) and this policy decision No.334 applies only to daily rated workmen, who had worked in the Engineering Section of the Municipal Corporation. According to the respondent, the petitioners are neither daily rated workmen nor were working in the Engineering Section of the Ahmedabad Municipal Corporation and, therefore, this policy decision does not apply to the Badli workers employed in the Dairy. The respondent had also taken the stand that it was not a condition of service of the Badli workmen of Dairy to have the status of regular employees on completion of 900 days working in 5 years period and there is no question of that condition of service being protected by settlement u/s 2(p) dated May 11, 1981. The respondent has stated in para 7 of the additional affidavit-in-reply dated July 14, 1995 that all the petitioners have not completed 900 days service in 5 years and assuming without admitting that they have completed 900 days service in 5 years, they are not entitled to regularisation on the basis of the settlement u/s 2(p). With regard to the illustrative cases of the Badli workmen, in whose cases the regularisation orders have been passed, it has been stated in para 8 of this affidavit-in-reply dated July 4, 1995 that mere fact that some Badli workmen were regularised in service in the past does not give any right to the petitioners to become permanent on the strength of the said Award, which does not apply to the petitioners. It has also been stated in para 9 of this affidavit-in-reply dated July 14, 1995 that

provisions of Section 25-B of the Industrial Disputes Act cannot be relied on by the petitioners for the purpose of showing that they have been in continuous service. According to the respondent the period during which the petitioners did not work, may be on account of no fault on their part, cannot be counted in their favour and they cannot be considered to have remained in an uninterrupted service. According to the respondent, there was no stoppage of work, the Dairy was working, but the petitioners being Badli workmen could not be provided work since there was no work available for them and hence there was no question of invoking the provisions of Section 25-B in their favour for the purpose of showing the continuous service.

9. Apart from it, the respondent has also come with a case that the irregular employees (Badli workers) have no legal right to claim regularisation in service as a matter of course; there is no justiciable right for regularisation in service and to claim the benefits of the pay-scale at par with the regular employees, The respondent has also stated that there are disputed questions of fact and the same are required to be demonstrated by leading oral and documentary evidence before the appropriate forum and the same cannot be resolved in summary jurisdiction under Article 226 of the Constitution of India. It is also the say of the respondent that petitioners, who were temporarily appointed as Badli workers, if seek the relief so as to be treated as permanent workmen, it may be a matter for Industrial Adjudicator to decide and the matter, therefore, was in the exclusive domain of the Industrial Adjudicator.

10. The respondent had also taken the stand that the service of Badli workmen, howsoever long, cannot be conferred right of permanency or regularisation if there is no work available for making them permanent. Adverting to the financial crisis and the conditions faced by the Abad Dairy, it has been stated that the situation has drastically changed after June 1994; the sale of milk has been falling gradually every month with the arrival of various brands of milk from different Dairies operating in the market since last 3 to 4 years; sale of milk in the year 1984-85 was 3 lac litres per day, but the same has presently come down to hardly 45,000 litres per day and with the sale of the milk taking nose-dive, as aforesaid, it was no longer possible for the respondent-Dairy to provide work even to its permanent workmen; large number of permanent workmen are surplus in the Dairy and with a view to ease the burden of idle wages, the Scheme of Voluntary Retirement was introduced on May 17, 1994. Under this Scheme of Voluntary Retirement, 671 permanent workmen had resigned from the service of the Dairy by availing the extra terminal dues in addition to the statutory dues available on resignation/termination of the services. There were more than 1,200 permanent workmen in the service of the Dairy in May 1994 when the Scheme of Voluntary Retirement was introduced and even after the voluntary retirement of 671 workmen, there are large number of surplus permanent workmen and the Dairy is not in a position to provide work even to these large number of surplus permanent workmen ; Uttam Dairy, a Unit of Ahmedabad Dairy Co-operative Milk Producers Union, having average sale of

75,000 litres of milk per day, had hardly 500 workmen in its employment and as against it, the respondent-Dairy is having average sale of 45,000 litres of milk per day and it has about 540 permanent workmen. The respondent has gone to the extent of telling that the adverse market conditions have affected the sale of milk to such an extent that the respondent-Dairy has been financially crippled. It has been incurring losses year after year. The Gujarat Dairy Development Corporation Ltd. (for short "G.D.D.C.L.") of which the respondent-Dairy is the main Unit has also been incurring heavy losses and the accumulated loss of the Corporation as on March 31, 1994 was Rs. 27,75,03,767/- and the G.D.D.C.L., of which, the respondent-Dairy is the main Unit, has lost its network and has been declared as a Sick Unit by the Board of Industrial and Financial Re-construction (for short "B.I.F.R.") vide order dated October 26, 1994 in case No. 607 of 1994. It has been then submitted that the B.I.F.R. has declared the Abad Dairy as a Sick Unit and as per Section 22 of the Sick Industrial Undertakings Act, all the litigations pending before any Court of law or any forum, are automatically stayed when the Unit is declared as a Sick Unit by B.I.F.R. That the Government has issued a Resolution dated May 18, 1994 through which it has been resolved that the posts, arising on account of Voluntary Retirement Scheme introduced by the G.D.D.C.L., are to be kept vacant and, therefore, the posts, which have become available on account of Voluntary Retirement Scheme cannot be filled up as per the Resolution passed by the Government.

11. In the affidavit dated March 29, 1996 filed by Manager (Adm.), Abad Dairy, namely, T.C. Vyas, it has been stated that in case of Badli workers employed after 1984, there is a specific stipulation in the letters of appointment that no right will be created in their favour for permanent appointment on the basis of putting in 5 years of service and 900 days of work and certain names have been given by way of example in whose cases such a specific stipulation was contained in the letters of appointment and it has been submitted that these named employees are the petitioners in Special Civil Application No.4797 of 1990 and allied matters. Copies of such appointment letters have been placed on record as Annexure "A" collectively alongwith this affidavit dated March 29, 1996. In the last para of this affidavit dated March 29, 1996 the names of certain petitioners have been given, who had not worked for a period of 180 days in each of the 5 years and on that basis it has been submitted that certain petitioners had not completed 900 days in a period of 5 years as per the requirements so as to claim regularisation.

12. In the additional-affidavit dated April 2, 1996 filed by K. R. Koshti it has been stated that the Respondent had admitted the fact that Badli workers, who were appointed prior to May, 1984, were entitled to regularisation on the basis of Award made by the Industrial Tribunal in Reference (IT.) No.179 of 1975 and the policy decision No.334 dated December 29, 1978 read with the settlement dated May 11, 1981 u/s 2(p) of the Industrial Disputes Act and, therefore, in case of those Badli workers, who were appointed after May, 1984, there was a specific stipulation in their letters of appointment that no right will be created in their

favour for permanent appointment on the basis of putting in 900 days of work in a period of 5 years or more. Reference has also been made to the fact that Dairy has been taken over by the Government of Gujarat and the same was handed over to G.D.D.C.L. through a tripartite agreement and in the said agreement/sale deed service condition has been included in condition No. 4.

13. To complete the claim of the pleadings of the parties, reference may be made to the affidavit-in-reply dated December 28, 1992, which has been filed by one S. K.Desai working as Joint General Manager in Abad Dairy wherein it has been stated that the Badli rickshaw drivers are required to present themselves at security counter at the gate at specified time, where they have to first sign in the Muster Roll and it is only thereafter that depending upon the number of drivers, who are absent, the exigency of work, these Badli rickshaw drivers are given work on the basis of their seniority. If the work is not available, they have to go back and this practice is existing since their joining. In support of this averment, the extracts of the Muster Rolls for the period from April 1992 to October 1992 were annexed. It has also been stated that the perusal of Muster Rolls would reveal that the day on which the workmen presented themselves for work they had signed in the column of respective date and when they have not presented themselves for work they have not signed the Muster Roll, By way of example, it has been pointed out that in the month of September, 1992 one of the petitioners, namely. Naresh Sohila had reported for duty on almost all the days whereas Mahmad Iqbal Shaikh and Swaminarayan Koshti had not reported even for a single day. In October, 1992 Naresh Sohlia had reported only for 4 days and in the month of May, 1992 Mahmad Iqbal Shaikh had not reported even for a day whereas Koshti, another petitioner, had reported only for 7 days.

14. Both the sides have placed on record certain charts and statements to substantiate the corresponding and respective averments made by them to which the reference shall be made hereinafter.

15. It may be pointed put that in the subject-matter of these very petitions, a Special Civil Application had earlier been filed being Special Civil Application No. 3504 of 1990 by Gujarat Doodh Yojana Karmachari Sangh with identical prayers and the same was rejected on November 30, 1992 by the Division Bench, but later on a Review Application No. 228 of 1993 was filed and the order dated November 30, 1992 rejecting the petition was sought to be reviewed. This Review Application was allowed on April 23, 1993 by the Division Bench on the ground that the earlier rejection order had been obtained by suppression of fact and on the very same day i.e., April 23, 1993 after the Review Application was accepted, the main Special Civil Application has been withdrawn by the Gujarat Doodh Yojana Karnachari Sangh itself.

16. There being no dispute that the petitioners herein were appointed in Abad Dairy in the year 1979 and 1982 to 1985 and before December, 1979 Abad Dairy was run by Ahmedabad Municipal Corporation and that this Abad Dairy had been taken over by the Government of Gujarat and was then handed over to the

G.D.D.C.L., the question which first deserves consideration is as to whether the present petitioners are covered by the policy decision No. 334 dated December 29, 1978 in terms of the Award in Reference (I.T) No. 179 of 1975 read with settlement arrived at u/s 2(p) of the Industrial Disputes Act between the representatives of Abad Dairy functioning as a Unit of G.D.D.C.L., Ahmedabad on one side and the representatives of the workmen, i.e., Gujarat Doodh Yojna (Milk Scheme) Karmachari Sangh, Ahmedabad on the other side. This settlement dated May 11, 1981 u/s 2(p) of the Industrial Disputes Act was considered by the parties in the background that the salaries/wages and other facilities" of the services of the employees of the Dairy had remained equivalent to the employees working in the Ahmedabad Municipal Corporation for many years and in order to see that salaries/wages and other facilities of the employees working in the Dairy remained equivalent to that of the employees working in the Ahmedabad Municipal Corporation permanently, both the parties took the decision that the same may be made equivalent to the employees working in the Ahmedabad Municipal Corporation and in future too they may be kept equivalent as is clear from para 3 and para 5 of this settlement and the condition No. 6 of the settlement, which has already been reproduced in the end of para 5 of the earlier part of the Judgment, shows that salaries and other facilities of the employees working in the Dairy have to be kept equivalent to the pay scales and facilities made available to the employees of the Ahmedabad Municipal Corporation. For the items, as aforesaid, if the employees working in Dairy were to be treated at par with the employees of the Ahmedabad Municipal Corporation, the question arises as to whether the employees of the Dairy should also be given the benefits as were made available to the employees of the Ahmedabad Municipal Corporation under policy decision No. 334 dated December 29, 1978. This policy decision No. 334 was taken in the wake of the Award dated June 30, 1978 in Reference (I.T.) No. 179 of 1975. The contents of this policy decision dated December 29, 1978 show that the decision was with regard to the daily wagers, who had been working in different Departments under Engineering Section and who had completed 5 years or more service upto March 31, 1978 were to be made permanent with effect from April 1, 1978 and they were to be given the benefits, which were available to the permanent employees and even those employees, who were to complete 180 days every year and thus completed continuous service for 5 years shall also be given the same benefits. The petitioners" contention is that if the employees of the Ahmedabad Municipal Corporation are to be made regular on the completion of the 5 years continuous service by rendering minimum 180 days every year for a period of 5 years, they should also be treated at par and should be made regular on completion of the 5 years service as such. In terms of this policy decision by rendering 180 days service/every year and continuously for 5 years, it comes to 900 days service in a period of 5 years. Under this policy decision No. 334 dated December 29, 1978 the benefit of making the employees permanent was extended not only to those, who were parties to the Reference or who had completed the 5 years period upto March 31, 1978, but the process was to continue even in future as and when any

employee completes the 5 years continuous service, as mentioned in the policy decision and therefore, the ancillary argument, which had been made on behalf of the Respondents that this decision was applicable only to those who were parties to the Reference in which the Award dated June 30, 1978 was passed, is of no consequence. What was decided in the Award had been accepted in principle as a policy to be continued by the Ahmedabad Municipal Corporation and if the petitioners working in the Dairy are to be treated at par with the employees of the Ahmedabad Municipal Corporation, they could also claim the same benefit on completion of 5 years service as held out in the policy decision. Therefore, it can be said that the benefit of the policy decision, which was taken by the Ahmedabad Municipal Corporation, had been made available to the employees of the Dairy by virtue of the settlement arrived at u/s 2(p) of I. D. Act and any employee of the Dairy, who satisfied the conditions, as mentioned in the policy decision with regard to the completion of the continuous service of 5 years, could also claim the same treatment.

17. The other ground, on which the petitioners' claim was resisted on behalf of the Respondents, is that this policy decision speaks of the employees working in the Engineering Section only and, therefore, those, who were working in Sections other than Engineering Section, were not entitled and that the policy decision was applicable only to such daily wagers who were working in the Engineering Section. It was submitted on behalf of the petitioners that the words "Engineering Section", as mentioned in this policy decision, should not be read as a statute and it has to be read and understood in the light of the understanding with which both the parties have proceeded with the matters and it was pointed out that the Respondent G.D.D.C.L. itself had never denied this benefit in many cases. On the contrary, it had granted the same benefits to the employees notwithstanding the fact that they have been working in Sections other than Engineering Section in case they had completed requisite period of 5 years of service, as stated in the policy, and in order to support this submission on fact, several cases of regularisation of the services of the workmen of Abad Dairy were pointed out and it was submitted that these cases were only illustrative and not exhaustive. Mr. Koshti invited my attention to the document Annexures "D", "E" and "F" placed in record of the Special Civil Application No. 179 of 1995 showing that Badli workers in Production Department and Despatch Department had been regularised by passing orders on July 20, 1987 granting regularisation from April 1, 1987 to all those who had joined on March 5, 1982, March 3, 1982 and March 1, 1982. Ten more orders passed on different dates, i.e., from June 28, 1985 to July 27, 1988, placed on record of the Special Civil Application No. 249 of 1995 alongwith the additional affidavit dated April 2, 1996, were also proved. Similarly, Dr. Sinha referred to the order Annexure XVI dated May 14, 1986 in the Special Civil Application No. 7744 of 1991 and a similar order passed with regard to Khalil Ahmed Shahzada Pathan and the copies of three more documents filed on April 11, 1996 passed on May 10, 1983 and September 17, 1984. The petitioners have produced the identity cards with photographs of such

employees showing that they were Badli workers in Sections other than Engineering Section and in these photostat copies of the identity cards, the date of birth and the date of joining is also mentioned. Besides these, Circulars dated June 2, 1983 and August 16, 1984 issued under the signatures of the Accountant of the Ahmedabad Municipal Corporation and the District Development Commissioner (Adm.), available at pages 30 and 31 of Special Civil Application No. 179 of 1995 as Annexures "E" and "F", show that the aforesaid policy decision was reiterated and further clarifications were issued.

18. The Circular dated August 16, 1984 issued by the Central office of Ahmedabad Municipal Corporation shows that daily wagers, who had completed 900 days of service in a period of 5 years, were entitled to be regularised and that, list of such employees to be prepared twice a year and the same is to be sent before March 31 and September 30 and they are to be regularised every year from April 1 and October 1. In this Circular dated August 16, 1984 granting of regularisation has not been kept confined to the employees working in Engineering Section only and it has been made open for the members of the staff of all the Sections or Departments by using the words :

Vernacular matter omitted.

The illustrative cases, which have been cited on behalf of the petitioners, as stated above, read with the Circular Annexure "F" dated August 16, 1994 make it clear that the embargo that the concerned employees should have been working in Engineering Section/Department has not been there, rather under the Circular dated August 16, 1984 the granting of regularisation has been made open in case of such daily wagers irrespective of the department in which they have been working and thus all daily wagers working in different Sections/Departments have been brought at par subject to the condition of completing 900 days in five years. This circular does not even speak of 180 days in each of the five years.

19. The learned Counsel for the petitioners submitted that whereas number of employees working in various Departments had been granted regularisation irrespective of the Section or the Department to which they belong and in granting regularisation to them the restriction of working in Engineering Section only was not adhered to, the present petitioners were entitled to the same treatment in terms of the law laid down by the Supreme Court in the matter of Virendra Kumar and Others Vs. Union of India (UOI), . It was further argued that even if such relief in case of those, who were not working in the Engineering Section, is not granted on the ground of parity with the various cases, which have been cited, the petitioners are entitled to regularisation. The petitioners, who have been working in Sections other than Engineering Section are entitled to regularisation on the basis of the Circular dated August 16, 1984 to which the reference has been made herein-above. The decision in the case of Virendra Kumar (supra) was a decision rendered by two Judges of the Supreme Court in Civil Appeal No. 441 of 1981 decided on February 2; 1981. It was submitted by Mr. Patel appearing on behalf of the Respondents that this decision rendered by a

Bench of two Judges of Supreme Court was reconsidered in the case of Paluru Ramkrishnaiah and Others Vs. Union of India (UOI) and Another, . In the latest decision of the Supreme Court, i.e., Paluru Ramkrishnaiah (supra) decided by a Bench of three Judges the order passed in Virendra Kumar's case (supra) has been reproduced in extenso in para 4 and in para 6 of the judgment it has been recorded as under :-

"6. The aforesaid writ petitions came up for hearing before a Bench of two learned Judges of this Court on September 9, 1987. On the view that the judgment of this Court dated February 2, 1981 in Civil Appeal No. 441 of 1981 in the case of Virendra Kumar v. Union of India may require reconsideration, the petitions were directed to be placed before a three Judges Bench "where inter alia the correctness of the judgment could be looked into and the nature of relief available to the petitioners on the facts now stated would also be considered". It is in view of this order that these matters have been listed before us".

20. It is thus clear that the view which had been taken in Virendra Kumar's case (supra) does not hold the field and the plea of discrimination as such or to claim the relief on the ground of parity as such may not be tenable, but the fact remains that in view of the circular dated August 16, 1984 itself the embargo of Engineering Section was given up and therefore, all the employees irrespective of the working in the particular section were entitled to claim as per rules and regulations, in case, they are otherwise entitled by policy decision dated December 29, 1978 read with Section 2(p) settlement dated May 11, 1981. The argument which has been further raised on behalf of the Respondent is that the petitioners were only Badli workers whereas the policy decision u/s 2(p) settlement were only in relation to daily wagers. According to the Respondents the Badli workers are not included in the daily wagers and so also they could not have claimed the regularisation under the policy decision dated December 29, 1978 and the Section 2(p) settlement. There is no dispute that the petitioners were workmen within the meaning of Section 2(s) of the Industrial Disputes Act. Bombay Industrial Employment (Standing Orders) Rules, 1959 as modified and made applicable in Gujarat show that under its Schedule "I", i.e., Model Standing Orders the classification of workmen is provided in Standing Order No. 3. Badli or substitutes appeared at Standing Order No. 3(1)(c) and under the Standing Order 3(2)(c) Badli or substitute means the workman who is appointed to the post of permanent workman or probationer who is temporarily absent and whose name is entered in the Badli Register. It is thus clear that the Badli workers are in fact, the employees in waiting whose services are to be availed in case of the absence of a permanent or probationer who is temporarily absent. Such employees are appointed on daily wages and such employees cannot be excluded from daily wagers whether they are able to earn wages every day or not, may be contingent and correspond to an absence of a permanent or probationer employee but that by itself will not exclude them from the purview of being daily wagers. In fact, such a distinction, as is sought to be made by the Respondent so as to exclude Badli workers in contradiction to daily wagers, was never contemplated

by the parties at any stage and the sequence of events, the facts and the documents clearly show that the Badli workers were fully covered under the relevant policy decision, the settlement and circulars issued subsequently and even otherwise in accordance with the provision of Section 18(3)(d) such employees as the petitioners are fully covered by the settlement which were arrived at between the employer and the workmen.

21. The case of Prakash Cotton Mills Pvt. Ltd. v. Rashtriya Mills Mazdoor Sangh (1987-I-LLJ-97) cited by Mr. Deepak Patel is not at all applicable. The Supreme Court in this case considered as to whether the Industrial Court was justified in directing payment of compensation to some of the Badli workmen. The Supreme Court found that in the facts of this case the Badli workmen got work only in the absence of regular employees and that they do not have any guaranteed right of employment. It was a case of the closure and the Supreme Court found that on closure of the undertaking, Badli workers were not entitled to compensation. Such is not the controversy in the case at hand. May be that the Badli workers do not have the guaranteed right of employment but that is not the point of controversy. Here is a case in which the petitioners seek to enforce the decision taken by the Respondent and the settlement which had been arrived at and the circular which had been issued in this regard and under such decision, the settlement and circulars if it is found that the petitioners have a case and their claim is sustainable, such claim cannot be rejected merely because they are Badli workers. Mr. Deepak Patel cited before me 1993 Lab.IC 823 (Swesh Chandra v. State of M.P.) and Dinesh Shivubha Parmar Vs. State of Gujarat and Others, . These are the cases in which it was considered that the irregular appointees cannot seek the relief of regularisation but I find that these decisions are of no avail in the facts of the present case because no material has been placed to show that the appointments of these petitioners suffer from any irregularity and as such nothing is borne out in favour of the Respondent on the basis of these two cases.

22. It was then submitted that the Respondent-Corporation has been declared as sick industry and as such no proceedings against the Corporation, which was a sick unit, could be entertained. In this regard reliance was placed on an unreported decision of the Single Bench of this Court rendered in Special Civil Application No. 7756 of 1994 dated September 30, 1994 and the Supreme Court decision in the case of Standing Foreign Public Enterprises v. New Delhi Mazdoor Union, 1995 (1) SCC 196 . In this decision the Supreme Court while dealing with the Writ Petition No.(C) 12706 of 1985 under Article 32 of the Constitution of India considered the claim of the workmen who were working with the Contractor engaged by the Respondent seeking regularisation in the employment. By an agreement entered into before the Conciliation Officer on July 23, 1994, the Management had agreed to consider sympathetically the question of regularisation of those of the workmen who are found to be suitable if they are sponsored by the Employment Exchange and are found fit. After giving narration of the facts the Supreme Court noticed that the Respondent - Corporation

became a sick unit and on April 20, 1992 the case was referred to B.I.F.R. The Supreme Court did not refuse the relief on the ground that the Respondent had become a sick unit. The Supreme Court considered that the Corporation had its own rules for recruitment and regularisation. The Management had agreed to regularise those of the petitioners who would be found to be suitable and sponsored by the Employment Exchange as condition precedent for entertainment of application for employment and the Unions had also agreed that only such of the petitioners would be sponsored by the Employment Exchange and found fit may be considered for regularisation. It was also considered that seven of them had not been sponsored by the Employment Exchange and out of 62 employees who were sponsored 57 were not found fit and therefore, they cannot claim regularisation. Thereafter, it has been again noticed that the Corporation itself had become a sick unit and out of regular work force not less than 449 workmen were surplus. In these circumstances, the Supreme Court found that it was not possible to give any direction to the Respondent-Corporation to consider the regularisation of the remaining petitioners even if they were found to be fit for employment in the Corporation. It would thus appear that factum of the Corporation becoming sick unit was only noticed as an additional ground and in the facts of this case, the employees who were working with the Contractor were not granted the relief. In the present case before me it is not a case of the Respondent-Corporation that the petitioners were engaged by any Contractor. These petitioners were employees of the Corporation itself and in case they are entitled to claim the relief of regularisation with reference to the policy decision read with Section 2(p) settlement and circulars, relief cannot be declined merely on the ground that the Corporation had become a sick unit. Moreover, order u/s 22(3) as passed on by B.I.F.R. has been produced before this Court on the basis of which it can be said that the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, Standing Orders or other instruments in force, to which such sick industrial company is a party or which may be applicable to such industrial company immediately before the date of such order, shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adaptations and in such manner as may be specified by the Board. There is no declaration u/s 22(3) made with regard to Respondent-Corporation by approaching a Board for Industrial and Financial Reconstruction Regulations, 1987 and, therefore, the arguments raised on behalf of the Respondent in this regard cannot be sustained. In the unreported decision dated September 30, 1984 rendered in Special Civil Application No. 7756 of 1994, a copy of the order of the Board suggesting the scheme u/s 17 of the Act had been produced and it was considered that the direction to pay the wages to the workmen could not be given in view of the provision of Section 22(1). According to Section 22(1) proceedings for the winding up of the industrial company or for execution, distress or the like against any of the properties of industrial company or for appointment of a receiver in respect thereof and no suit

for the recovery of money or for the enforcement of any security against the industrial company or of any guarantee in respect of any loans, or advance granted to the industrial company shall tie or be proceeded with further, except with the consent of the Board or, as the case may be, the Appellate Authority. These writ proceedings under Article 226 are not covered by any of the nature of the proceedings referred to in Section 22(1). Special Civil Application No. 7756 of 1994 decided by the Single Bench on September 30, 1994 was with reference to Section 22(1) and hence the same is of no avail and unless and until there is an order of the Board passed under Sub-section (3) of Section 22 argument raised on behalf of the Respondent-Corporation on the ground of it being a sick unit is not available to the Respondent-Corporation and the same is hereby rejected,

23. Mr. Deepak Patel also cited a decision in the case of Chandigarh Administration and another Vs. Jagjit Singh and another, , and submitted that merely because in case of certain employees who are said to be similarly situated employees orders of regularisation have been passed and same cannot be claimed as a matter of right by the petitioners and they cannot be treated as a precedent. In the said case the Supreme Court has considered the question with regard to cancellation of list. After lapse of 17 years a petition was filed and was allowed by Punjab and Haryana High Court. The Supreme Court held that the view taken by the High Court was unsustainable in principle. It was observed in para 8 of the judgment that merely because the Respondent authority has passed a particular order in the case of another person similarly situated can never be a ground for issuing a writ in favour of the petitioner on the plea of discrimination, the order in favour of the other person may be legal and valid or it might not be, but that has to be investigated first before it can be directed to be followed in the case of the petitioner. If the order in favour of other persons is found to be contrary to law or not warranted in the facts and circumstances of the case, it is obvious that such illegal or unwarranted order cannot be made basis, for issuing the writ compelling authority to compel illegality or to pass another unwarranted order. In the facts of the present case, keeping in view the policy decision, settlement and the subsequent circulars it cannot be said that the orders which had been passed with regard to several similarly situated employees, the details of which have been given in the earlier part of the order, cannot be said to be illegal or unwarranted. Moreover when the plea with regard to the discrimination is raised it has to be decided on its own merits; factual and legal. The orders which have been placed on record with documents and other details with regard to other similarly situated Badli workers including those appointed prior to 1984 and even after 1984 make it amply clear that such orders were covered under the policy decision, settlement and circulars which were issued in 1983 and 1984 and therefore, there is no material in the facts of this case to show that these orders, passed with regard to several similarly situated employees were illegal or unwarranted and such orders could be validly passed in their favour on the basis of the policy decision, the settlement and the circulars issued in this regard as referred hereinabove. The case of the

petitioners is found to be similar in material aspects but the petitioners have not been accorded the same treatment and therefore, it can be said that the plea of discrimination raised by the petitioners is not without force.

24. In this view of the matter the petitioners could not be excluded from the benefit of the policy decision under settlement on the pretext that they were not daily wagers and they were only Badli workers and it has already held that the embargo of Engineering Section was done away with the issue of the circular dated August 16, 1984 as referred hereinabove and hence there is no basis to exclude petitioners from the applicability of the policy decision, Section 2(p) settlement and the circulars issued subsequently. For the purpose of their regularisation subject to the requirement of fulfilling the conditions which were contemplated in such policy decision read with 2(p) settlement and the circulars. It was also argued on behalf of the Respondents that many of the petitioners had not completed the requirement of 900 days working in a period of five years by working for a period of 180 days per year and, therefore, even if they are covered under the policy decision as daily wagers working in any section, they cannot claim regularisation. So far as this grievance is concerned, it is based on facts. The petitioners have given their data for the purpose of claiming regularisation under this policy decision and it is found that in large number of cases on the basis of admitted facts it is clearly established that they had fulfilled the requirement of requisite service in requisite manner so as to claim the regularisation after serving for a period of five years. I called upon the learned Counsel for the Respondent Mr. Deepak Patel to furnish the list of such employees who had not completed 900 days of working by working 180 days per year in a period of five years. Despite repeated opportunities no such list was furnished except for the mention made in affidavit dated March 29, 1996 at page No. 65 in Special Civil Application No. 249 of 1995. In this affidavit by way of example the name of Shri Bemusing R.Solanki (Petitioner No. 31) in Special Civil Application No.4797 of 1990, Magansing Lalsing Chauhan (Petitioner No.4) in Special Civil Application No.737 of 1995, and Lalji (Petitioner No. 6) in Special Civil Application No. 737 of 1995 have been given out and it has been stated that Shri Magansing had worked for a period of 851 days only and Shri Lalji had worked for a period of 749 days only. So far as Shri Hemusing R. Solanki is concerned the total number of days for which he has worked have been given out to be 1159 days between October 18, 1984 to 1991 and even if we consider the days for which he has worked for a period of five years between 1985 to 1989 on the basis of the date given by the Respondents the total number of days for which he has worked in a period of five years between 1985 and 1989 comes out to be 907 days and it exceeds 900 days working in a period of five years. In any case, even the earlier requirement of completing 900 days of working in a period of five years by putting in 180 days every year was modified in the subsequent circulars dated June 2, 1983 and August 16, 1984 which are available at page Nos. 30 and 31 of Special Civil Application No. 179 of 1995 and the reading of these two circulars dated June 2, 1983 and August 16, 1984

makes it very clear that only the requirement which is kept is, that the concerned workmen who have completed 900 days of working and in a given case even if he has not completed 900 days of working in a period of five years he may be considered for regularisation as and when he completes 900 days. In this view of the matter, I do not find any substance in the factual controversy which has been sought to be raised through an affidavit dated March 29, 1996 by the Respondent referring to three cases as above which are found to be of no consequence.

25. Learned Counsel for the Respondent had also argued that in the appointment orders which had been given after 1984, it was made clear in the letter of appointment itself that no right will be created in their favour for permanent appointment on the basis of putting in five years of service of 900 working days work and the names of few employees have been referred in whose cases such specific stipulation was made in the letters of appointment given after 1984. Even if it is found to be factually correct that such stipulations were made in the letters of appointment which were issued after 1984, it cannot be made use of to the prejudice of these employees in case they are otherwise found to be entitled and covered under the terms of settlement and the policy decision in accordance with law. It is settled that the employees cannot enter into the contest at the time of seeking appointment and at that stage where they are seeking appointment the conditions which are held out in appointment letter have to be accepted by them as they have no other choice. By incorporating such term in the letter of appointment the employer cannot deprive or deny those benefits which are otherwise available to them under any decision or settlement which had already been arrived at. In the instant case, the parties had agreed through a policy decision read with settlement and also by circulars which had been issued subsequently that those who complete the period of 900 days of working shall be entitled to be considered for regularisation and such right which has been created in their favour and which can be said to have been protected u/s 18(3)(d) of the I. D. Act could not be taken away and such employees could not be divested of the benefit of the same by including stipulation as alleged on behalf of the Respondents in the letters of appointment. The Supreme Court has also considered in the case of Central Inland Water Transport Corporation Limited and Another Vs. Brojo Nath Ganguly and Another, the question of gross inequality of bargaining power, together with terms unreasonably included in contracts between employees and employer. While considering the provision of Rule 9 of Central Inland Water Transport Corporation Ltd. Service Discipline & Appeal Rules, 1979 which conferred upon the Corporation the power to terminate the employee for acts other than misdemeanour - in para 98 of the judgment while referring to the earlier decision of the Supreme Court in West Bengal State Electricity Board and Others Vs. Desh Bandhu Ghosh and Others, it was observed that,"..... a naked hire and fire rule, the time for banishing which altogether from employer-employee relationship is fast approaching. Its only parallel is to be found in the Henry VIII Class, i.e., a provision conferred an absolute and

arbitrary power of the Corporation". The Supreme Court in para 101 of Central Inland Water Transport Corporation Ltd. (supra) also noticed gross disparity between the Corporation and its employees, whether they be workmen or officers and observed that the Corporation can afford to dispense with the services of an officer. It will find hundreds of others to take his place but an officer cannot afford to lose his job because if he does so, there are not hundreds of jobs waiting for him. In para 102 the Supreme Court has observed that it was not possible to equate the contract of employment with a mercantile transaction between two businessmen and much less to do so when the contract of employment is between a powerful employer and a weak employee. Such being the position of law it is far from convincing to accept the argument of Mr. Deepak Patel that in case of employees, who had been appointed after 1984 and in whose letters of appointment it has been specifically stipulated that no right will be created in their favour on the basis of putting five years of service or 900 days of working, cannot claim regularisation with reference to the policy decision, 2(p) settlement and the circulars and hence this contention raised on behalf of the Respondent is rejected.

26. It has been further argued by Mr. Raval, Mr. Deepak Patel and Mr. K. M. Patel, appearing for the Respondents that even if the petitioners are found to be covered by the policy decision, the settlement and the circulars the relief of regularisation cannot be granted to them because the Corporation is facing great financial crisis. It is already having surplus labour and have suffered heavy financial loss. Even the existing labour had to be relieved and a scheme of voluntary retirement had been imposed and under the Government circulars the vacancies which have become available on account of voluntary retirement cannot be filled and there is no question of granting regularisation when there are no posts. In this regard reliance was placed on behalf of the Respondent on certain decisions. It is the common case of the parties that the petitioners were Badli workers appointed in 1979, 1982, 1983, 1984 and 1985 and since June, 1991 they are not being given any work. Hindustan Steel Works Construction Ltd., etc. etc. Vs. Hindustan Steel Works Construction Ltd. Employees' Union, Hyderabad and another etc. etc., , was a case of retrenchment on account of heavy load on surplus labour force with management and the Labour Tribunal did not interfere with the retrenchment by taking a note of the fact that the Management was groaning under weight of surplus and excessive staff. The Supreme Court declined to interfere by substituting its own opinion from that of the Tribunal. This case is not applicable to the facts of the present case as it has nothing to do with the principle to be applied in case of retrenchment and in fact there was no question of retrenchment here because they were Badli workers. The names of the petitioners as Badli workers continued in Muster Roll and according to the Respondents themselves they have to be given work as and when the same is available according to the Respondents. The question which is under consideration is as to whether these petitioners were entitled to regularisation on completion of certain period of service as stipulated by the

policy decision, settlement and circulars. Once they are given the benefit of this agreed completed period of service, it will be open for the Respondents to deal with their case at par with other regularly appointed persons in accordance with law for the purpose of retrenchment but so far as their claim under the policy decision, the settlement and circulars is concerned, it is not affected by any of the principles which have been considered and that for the purpose of retrenchment in the aforesaid decision. The cases of 1993 Lab IC 823 (supra) and Dr. Arundhati Ajit Pargaonkar Vs. State of Maharashtra and others, , are the cases of irregular appointments and they have no application to the facts of the present case. In case of Zakir Hussain Vs. Engineer-in-Chief, Irrigation Dept. and Others, , the Allahabad High Court was concerned with the question of regularisation of daily wagers who had been appointed on ad-hoc basis and the Court held that they had no right of regularisation and the same could not be claimed as a matter of right. Here is a case in which the regularisation is being sought on the basis of a policy decision and the settlement which is binding on the parties and the circulars referred above. The claim of regularisation in the case before the Allahabad High Court was not based on any such policy or settlement and here also, but for the policy decision, settlement and the circulars issued by the Municipal Corporation which are applicable to the petitioners, regularisation could not be claimed as a matter of right. Therefore, in the instant case, the claim for regularisation is to be considered on the basis of the settlement which followed the policy decision and the circulars issued by the Municipal Corporation. Therefore, the decision of Allahabad High Court in Zakirhussain's case (supra) is of no avail. In the case of Ghaziabad Development Authority and others Vs. Sri Vikram Chaudhary and others, , it was held that in absence of availability of regular post for appointment the claim of the temporary wage employees could not be considered at par with regular employees for the purpose of regularisation but they should be given minimum wage under the statute and the direction was given not to terminate the services of such employees so long as it had work on hand, and to follow the principle of last come first go while effecting termination.

27. As against the aforesaid decision cited on behalf of the Respondents Dr. Mukul Sinha and Mr. Koshti have placed reliance on Daily Rated Casual Labour Employed under P and T Department Vs. Union of India (UOI) and Others, , in the case of State of Haryana and others Vs. Piara Singh and others etc. etc., and Life Insurance Corporation of India Vs. D.J. Bahadur and Others, The Supreme Court considered the case of the casual labourers in Post and Telegraph Department and held that the denial of minimum pay in the pay scales of regularly employed workmen amounts to exploitation of labour and the classification of casual labourers for the purpose of payment and different rates of wages was held to be violative of Articles 14 and 16 of the Constitution. In the case of Life Insurance Corporation of India v. D. J. Bahadur, (supra), the Supreme Court held that the settlement arrived at u/s 2(p) of the I.D. Act ceased to operate only when replaced by fresh settlement or awards arrived at under

the Act regarding conditions of service and the same could not be altered till such settlement or award is operative. In the facts of the case at hand, it is not the case of the Respondent that the settlement which had been arrived at u/s 2(p) had been replaced or substituted by any subsequent settlement and therefore, this settlement is operative. On account of the development of the situation subsequently if it did not remain possible for the Corporation to continue with the settlement it could have taken steps to get the settlement modified or revised and it could have followed the course of action under the relevant law. But so long as the settlement is operative, the petitioners who are entitled to the benefits of such settlement cannot be deprived of the same. In the case of *State of Haryana and Ors. v. Piara Singh and Ors.*, (supra) it was held that the main concern of the Court in such matters is to ensure the Rule of law and to see that the Executive acts fairly and gives a fair deal to its employees consistent with requirements of Articles 14 and 16 of the Constitution of India. Where a temporary or ad hoc appointment is continued for long the Court presumes that there is need and warrant for a regular post and accordingly directs regularisation and that these are the guiding principles. Mr. Koshti has cited a judgment in the case of *Chief Conservator of Forests and another, Vs. Jagannath Maruti Kondhare, etc. etc.*, . In this case, the Supreme Court was concerned with the case of casual workmen who were employed under the scheme with permanent basis undertaken by the Forest Department of the State Government working for 100 to 300 days in each year and being continued as casual workers for 5 to 6 long years. The Industrial Court held such workmen to be permanent with all consequential benefits and this relief granted by the Industrial Court was upheld by the Supreme Court and the plea of the Department of financial difficulties was rejected. The Supreme Court decision in the case of *State of Haryana v. Piara Singh* (supra), was also considered and in this case it was also noted in para 18 by the Supreme Court that under Item 6 of Schedule IV of the said Act to employ the employees as Badli casuals or temporaries and continuing them as such for years with the object depriving them of the status of permanent employees and privileges is a case of unfair labour practice. Item No. 10 of the 5th Schedule of Industrial Disputes Act also says that to employ workmen as Badlis, Casuals and Temporaries and to continue them as such for years with the object of depriving them of the status and privileges of permanent workmen will be a case of unfair labour practice.

28. Considering the several cases which have been cited on behalf of the parties, as discussed above, the position of law is clear that if any benefit or status is due to any workmen under settlement which is binding on the parties, they cannot be deprived merely on the ground of financial constraints. The Respondents have failed to make out a case that the petitioners who are not entitled to claim regularisation after completing requisite period of service in accordance with policy decision and the settlement arrived u/s 2(p) and the circulars which are applicable to them and which have been issued later on and as such their claim cannot be denied on the ground that the Corporation was facing financial

difficulties. Once the petitioners are given the relief in terms of this settlement and are regularised they have to be treated at par with other regular appointees for all purposes and it may be open for the Respondent-Corporation to treat them in accordance with law at par with such regular appointees whether in the context of the fact that the Corporation has been declared a sick company, whether in the context of the surplus labour and they may meet the same fate as met by regular employees.

29. The result of the aforesaid discussion is that all these petitions succeed and it is directed that all the petitioners who have completed 900 days in accordance with the policy decision No. 334 dated December 29, 1978 read with settlement u/s 2(p) and the circulars dated June 2, 1983 and August 16, 1984 may be granted the relief of regularisation from due date with all consequential benefits, if any, and thereafter it will be open for the Corporation to deal with such employees in accordance with law on account of subsequent development and the fate they would have that otherwise as regular employees for all purposes including retrenchment keeping in view the observations made in this judgment. Appropriate orders may be issued accordingly within a period of three months from the date the certified copy of this order is served. Rule is made absolute in all these petitions accordingly with no order as to costs.