

(1996) 10 SC CK 0203

In the Supreme Court Of India

Case No : Civil Appeals Nos. 9378-80 Of 1995

Union of India (UOI) and Others

APPELLANT

Vs

Nanda Kumar and Others

RESPONDENT

Date of Decision : 30-10-1996

Acts Referred:

Citation : (1996) 5 SCALE 12 : (2001) 9 SCC 166

Hon'ble Judges : S. C. Agrawal, J;G. T. Nanavati, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. These appeals raise common questions for consideration. They are, therefore, disposed of by a common order.

2. The respondents are licensed porters at Railway Station, Muri on South-Eastern Railway. They were discharging the work of loading and unloading of parcels from trains at the parcel office at Railway Station, Muri. For that work, they were being paid at the rate of Rs. 15.00 for 8 hours. The respondents in Civil Nos. 9378-79 of 1995 filed applications (OAs Nos. 1024 and 1209 of 1989 and OA No. 425 of 1990 before the Central Administrative tribunal, Calcutta bench (hereinafter referred to as "the tribunal") seeking regularisation as railway employees. The said applications were contested by the Railway Administration. By judgment dated 18/2/1994, in OAs Nos. 1024 and 1209 of 1989, the tribunal has held that the said respondents were being utilised on the strength of an agreement as per the terms of the licences issued to them as porters and that any service rendered by them during continuance of such agreement, could not give them right or status of independent casual labourers serving in the Railway Administration and that they could not be treated on a par with independent casual labourers engaged by the Railway Administration. The tribunal, therefore, held that they could not claim absorption by regularisation in the railway service. The tribunal, however, held that the applicants in these applications have rendered service for long years and it would amount to injustice if the monetary

benefits which are admissible to other casual employees are denied to them. The tribunal has directed that they should be paid remuneration/wages at the rate of the scale which is admissible to a casual labourer having temporary status.

3. The said judgment was followed by the tribunal in its judgment dated 10/6/1994 in OA No. 425 of 1990 filed by the respondents in Civil No. 9380 of 1995.

4. The appellants have filed these appeals against both the aforementioned decisions of the tribunal insofar as the tribunal has directed that the respondents should be paid remuneration/wages at the rate which is admissible to a casual labourer having temporary status.

5. We have heard Shri N.N. Goswamy, the learned Senior Counsel appearing for the appellants, and Shri Raj Kumar Gupta, the learned counsel appearing for the respondents.

6. In support of the impugned directions given by the tribunal, Shri Gupta has placed reliance on the judgments of this court in *Daily Rated Casual Labour Employed under P&T Deptt. through Bhartiya Dak Tar Mazdoor Manch v. Union of India*, *Jacob M. Puthuparambil v. Kerala Water Authority and National Federation of Rly. Porters, Vendors and Bearers v. Union of India*. We have perused the said decisions. They have no application to the facts of the present case. In all these cases, the employees, who were seeking relief on the basis of "equal pay for equal work", were actually in employment of the State, while in the present case it has been found that the respondents are not railway employees and have been handling parcels on the basis of an agreement in terms of the licences that have been issued to them by the Railway Administration to work as licensed porters at the railway station. Moreover, in the present case, it cannot be said that the respondents stand on a par with casual labourers employed on temporary basis by the Railway Administration. On behalf of the appellants it has been pointed out that a casual labourer employed on temporary basis, cannot engage in other employment and his earnings are limited to the wages/remuneration received from the Railway Administration, but the respondents, being licensed porters, are free to make additional earning by carrying the luggage of passengers at the railway station. There is nothing on record to controvert the said submission. In these circumstances, it must be held that the tribunal was in error in giving directions regarding payment of remuneration/wages to the respondents at the rate which is admissible to a casual labourer having temporary status.

7. The appeals are accordingly allowed, the direction given by the Tribunal in the impugned judgments regarding payment of remuneration/wages to the respondents at the same rate which is admissible to a casual labourer having temporary status is set aside. No costs.