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C.A.No. 4623 OF 2000
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4623 OF 2000

UNION OF INDIA & ANR.

...
APPELLANT (S)

VERSUS

MUKESH KUMAR TOMAR & ORS.

...
RESPONDENT (S)

O R D E R

The respondents herein were initially engaged on ad hoc basis for a period of six months to work in different capacities in Jain Commission and their services were continued from time to time pending Inquiry. They approached the Central Administrative Tribunal seeking direction for absorption and regularisation. Their applications were resisted by the appellants on the ground that most of them had crossed the age of 25 years even at the time when they were initially appointed by the Commission, they were fully aware as to the duration of that Commission and there was no legal basis for them to claim absorption and regularisation of their services.

The Tribunal after considering the rival contentions and distinguishing the judgment of this Court cited on behalf of the respondents in Central Welfare Board Vs. Anjali Bepari, (1996) SCC (L&S) 1358, dismissed the petitions. The respondents aggrieved by the order of the Tribunal moved the High Court by filing writ petition. The High Court by a short order without reflecting on rival contentions gave the following direction:-

"We see no reason why they should not be treated at par with casual labourers engaged by respondent. The petitioners who are eight in numbers, two in C.W. No.1906/99 and six in this writ petition who were engaged by the respondent should also be considered for regularisation. For that purpose their name be kept in the register of casual labour. And as per the date of their joining they should be given seniority with the casual labour engaged by respondent. As and when vacancy arises they should be considered for appointment in accordance with their seniority."

It is aggrieved by this order the appellants are before us in this appeal.

Shri N.N. Goswami, learned senior counsel urged that the High Court committed a serious error in giving the directions as extracted above treating the respondents at par with other casual labourers engaged by the Government; most of the respondents had crossed the age of 25 years even at the time when they were initially appointed in the Commission that too on ad hoc basis; they knew fully well that their appointments were not made on regular basis and there was no rule which supported that their cases would be considered for absorption or regularisation on the basis of their service in the Commission. He also submitted that the Tribunal rightly distinguished the judgment of this Court aforementioned observing that unlike in that judgment in the present case most of the respondents had crossed the age of 25 years at the time of initial appointment and no junior to them had been retained in service. In short, the learned counsel stated that the High Court was not at all justified in disturbing the order passed by the Tribunal.

The learned counsel for the respondents, on the other hand, urged that the impugned judgment of the High Court need not be disturbed because the High Court has not given any other direction except to consider their cases for giving engagement as and when such work is available to them.

Looking to the impugned judgment of the High Court, it appears to us that the High Court has n

ot simply observed that as and when there is work available, the cases of the respondents to be considered for giving them work on ad hoc basis or on casual basis, but the directions given by the High Court include regularisation and maintaining seniority, in other words, the direction as aforementioned, gives status to them that too without any legal basis. The Tribunal was right in rejecting the applications filed by the respondents. The learned counsel for the respondents was also not in a position to point out as to what is the legal basis for the respondents to claim absorption or regularisation in service. All that the counsel pleaded is that as and when occasion arises the opportunity may be given to the respondents to get engaged.

Under the circumstances and given facts, the impugned judgment cannot be sustained, hence it is set aside. The appeal is allowed accordingly. No costs.

However, we may add that on future occasion if there is any work available to the respondents on ad hoc basis for such Commissions, their cases could be considered if permissible.

.....J.
(SHIVARAJ V. PATIL)

.....J.
(ARIJIT PASAYAT)
New Delhi,
March 27, 2003.
ITEM NO. 117 COURT NO. 10SECTION XIV

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

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APPELLANT (S)

VERSUS

MUKESH KUMAR TOMAR AND ORS.

...
RESPONDENT (S)

Date :
27/03/2003
This Appeal was called on for hearing today.

CORAM :HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s)Mr N.N. Goswami, Sr. Adv.
Mr. Ashok K. Srivastava, Adv.
Mrs. Sushma Suri, Adv.

For Respondent (s)Mr. V.K. Rao, Adv.
Mrs. Madhu Sikri, Adv.

UPON hearing counsel, the Court made the following
O R D E R

Mr. N.N. Goswami, learned senior counsel for the appellants started his arguments at 2.40 p.m. and concluded at 2.55 p.m. Thereafter, Mr. V.K. Rao, learned counsel for the respondents started his arguments and concluded at 3.05 p.m.
The appeal is allowed in terms of the signed order.
No costs.

(P.D. Balodi)
Court Master

(Shelly Sen Gupta)
Court Master
(The signed order is placed on the file)