IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7286 OF 2014

WITH

WRIT PETITION NO. 4485 OF 2013

The Union Of India, Through
The Flag Officer Commanding In Chief ... **Petitioner**

Versus

The General Secretary, Indian
Naval Employees Union And Anr. ... **Respondents**

WITH

INTERIM APPLICATION NO. 19587 OF 2022

IN

WRIT PETITION NO. 7286 OF 2014

Vasanti Kasim Valmiki And Ors. ... **Applicants**

In the matter between

The Union Of India, Through
The Flag Officer Commanding In Chief ... **Petitioner**

Versus

The General Secretary, Indian
Naval Employees Union And Anr. ... **Respondents**

Mr. S. S. Pakale, *Senior Advocate a/w Mr. M. S. Bhardwaj, Mr. Amit Sharma for the Petitioner in both the Petitions.*

Ms. Nisha N. Valani *for Respondent No.2 in both the Petitions.*

Mr. Yogendra Pendse *a/w Ms. Shilpa Pawar for Intervenors.*

CORAM : SANDEEP V. MARNE, J.

DATE : 16 OCTOBER 2026.

P.C. :

1) The Union of India through the Flag Officer Commanding in Chief, Western Naval Command has filed the present Petitions challenging two decisions of the learned Presiding Officer Central Government Industrial Tribunal-2, Mumbai (**CGIT**). By judgment and order dated 13 August 2012 the CGIT has allowed Reference No. CGIT-2/14 of 2010 directing the Petitioner to absorb and regularise services of 23 female rice cleaners in group D category from the date of completion of 240 days of service. Petitioner is further directed to pay to them arrears of wages and other allowances as admissible to the regular workers. By judgment and order dated 9 July 2013, the Tribunal has allowed Compliant No. CGIT-2/1 of 2010 filed under Section 33 A of the Industrial Disputes Act, 1947 (**ID Act**) holding that termination of services of the members of the complainant-Union was illegal and Petitioner was directed to reinstate the 17 women rice cleaners in service with full backwages from the dates of their termination.

2) I have heard Mr. Pakale the learned Senior Advocate appearing for the Petitioner, Ms. Valani, the learned counsel appearing for Respondent No.2 and Mr. Pendse, the learned counsel appearing for some of the affected workers. The individual workers are required to intervene since the Unions have lost interest in defending the Petitions.

3) It appears that the President of India had accorded sanction for the cleaning and processing of rice at shore establishments located in various Naval Commands and at the Base Victualling Yards in Mumbai, Kochi, and Visakhapatnam. The rice cleaning activity was to be done through women casual workers at the prevailing nerrick rates of pay applicable at the station on 'as required' basis. Each women rice cleaner was supposed to clean at least 50 kg. of rice per day. As per the sanction issued by the President of India, the Western Naval Command engaged services of over 40 women rice cleaners on casual basis. It appears that they were engaged in the 1980's and continued performing rice cleaning activities on daily wages basis. On 18 July 1991 the Chief of Naval Staff New Delhi granted sanction for regularization of services of women rice cleaners, who were recruited before 7 June 1988 and who were still in service, provided they were eligible for regular appointment in all respects. Letter dated 18 July 1991 of the Chief of Naval Staff reads thus:

> CP(SC)/6350 18 Jul 91
>
> The Flag Officer Commanding-in-Chief
> Western Naval Command
> Bombay
>
> **RICE CLEANERS-REGULARISATION AS UN-SKILED LABOURERS**
>
> 1. Refer to your letter CS/4458/B dated 30 Aug 90.
>
> 2. In accordance with Department of Personnel & Training OM No. 49014/4/90-Estt dated 08 Apr 90 casual workers recruited before 07 Jun 88 and who are in service may be considered for regular appointment to Group 'D' posts, in terms of the general instructions on the subject, even if they were recruited otherwise than through employment exchange and had, crossed the upper age limit prescribed for the post, provided 'they are otherwise eligible for regular appointment in all other respects. The said OM has since been circulated to Command HQrs vide this HQ letter No.. CP(SC)/5121 dated 11/15 Jul 91. The rice cleaner employed on Casual basis,

referred to in your letter under reference can be regularized against Group 'D' posts of unskilled labourers in terms of the above instructions provided regular vacancies are available and the individuals concerned are otherwise eligible.

3. In view of the manpower review of the entire Navy at marco level, the NSEC case in respect of BVY(B) referred in para 6 of the above quoted letter was not processed returned for resubmission on new format. The fresh Statement of Case of BVY (B) since received is under detailed scrutiny for projection to NSEC.

Sd/-
(CR Malawliya)SCSO
Dy. Director of Civilian Personnel for Chief of the Naval Staff

4) It appears that several women rice cleaners came to be regularized in service in pursuance of the scheme formulated vide letter dated 18 July 1991. Twenty Three women rice cleaners however were left out from the regularization process on the ground that they did not fulfill the eligibility criteria. They however continued working with the naval establishment on casual basis.

5) By 2009, Naval Headquarters had decided to procure cleaned rice, and therefore, the need for engaging women rice cleaners came to an end. On 22 September 2009, services of 17 women rice cleaners was terminated. At their behest, the union raised demands for their reinstatement and filed complaint under Section 33A of the ID Act before CGIT Mumbai, which was registered as Compliant No. CGIT-2/1 of 2010.

6) Simultaneously, the union also took up the issue for regularization of services of the leftover women rice cleaners at the behest of the union. A reference was made to CGIT by the Appropriate Government which was registered as Reference No. CGIT-2/14 of 2010.

7) The reference for regularization came to be decided first and by the judgment and order dated 13 August 2012, the CGIT directed absorption and regularization of services of the concerned female rice cleaners in Group D category with effect from completion of 240 days of service. By judgment and order dated 9 July 2013, Compliant No. CGIT-2/1 of 2010 came to be allowed directing reinstatement of terminated rice cleaners with full backwages from the dates of their termination.

8) Mr. Pakale, the learned Senior Advocate appearing for the Union of India submits that the Tribunal has grossly erred in holding that provisions of Section 33 (1)(a) of the ID Act was violated while terminating the services of women rice cleaners. He submits that the case does not involve any change in the conditions of service, but rather the cessation of the engagement of the concerned workmen due to the work itself coming to an end. Be that as it may, Mr. Pendse submits that on account of non-grant of any interim order by this Court while admitting the Petition, the concerned women rice cleaners were reinstated in service in the year 2013. He submits that most of them have already crossed the age of retirement except two who still continue to serve the Petitioners. In my view, therefore, Writ Petition No. 7286 of 2014 has virtually been rendered infructuous, as most of

the rice cleaners were permitted to continue working until they attained the age of superannuation. The two women rice cleaners who are yet to cross the age of superannuation are allowed to continue in service. Therefore, nothing really remains to be adjudicated in Writ Petition No. 7286 of 2014 except the aspect of backwages. In the present case, the Petitioner was required to take a decision to dispense with the services of the women rice cleaners on account of the work itself coming to an end. In such circumstances, it would be harsh to direct the Petitioner to pay back wages to the rice cleaners for the period during which they remained out of service. To this extent only the order dated 9 July 2013 passed by the CGIT deserves modification.

9) So far as Writ Petition No. 4485 of 2013 is concerned, the CGIT has directed regularization of service of women rice cleaners from the dates of completion of 240 days of service. In my view, it is impermissible for an industrial adjudicator to direct regularization in service merely on completion of 240 days of service. In a Government and its instrumentalities, no person can be regularized in absence of availability of posts and in excess of the sanctioned strength. An industrial adjudicator cannot indirectly ensure creation of posts by directing regularization of casual workers. At the same time, the Constitution Bench judgment in ***State of Karnataka and others Vs. Umadevi and others*** [1] makes a one-time exception in cases of those casual laborers who were irregularly appointed but had completed 10 years of service, and were directed to be regularized as one time exception. In the present case, the concerned women rice cleaners have undoubtedly rendered more than 10 years of service without any stay

1 2006 (4) SCC 1

order of any Court. Their colleagues are already regularized in service in pursuance of scheme introduced on 18 July 1991. While clarifying the ratio of the judgment of the Apex Court in ***Umadevi*** (supra) the Hon'ble Apex Court has held in ***Maharashtra State Road Transport Corporation & Anr. vs. Casteribe Rajya P. Karmachari Sanghatana***[2] and ***Hari Nandan Prasad & Anr vs Employer I/R To Mangmt.Of F.C.I. & Anr***[3] that if there is a violation of provisions of Article 14 of Constitution of India by regularizing services of other similarly placed individuals, industrial adjudicator would be justified in directing extension of such benefit to other workers as well. In the present case, since other similarly placed workers are already regularized in service and since the workers involved in these Petitions have rendered continued service for long time it is appropriate that they are also granted the benefit of regularization of service. This would ensure that they receive atleast pensionary benefits upon attaining the age of retirement. For this purpose, their services need to be regularised with effect from the date on which they completed ten years of service. In other words, services rendered by the women rice cleaners after completion of 10 years service shall be treated as regular for the purpose of pensionary benefits up to the dates of attaining the age of superannuation. This would however not make them entitle to claim any arrears of salary and wages and the benefit needs to be restricted only for payment of pensionary benefits to them.

10) Mr. Pendse has invited attention of this Court to the Office Memorandum issued by the Department of Personnel and Training,

2 2009 (8) SCC 556
3 2014(7) SCC 190

Government of India, which contemplates grant of temporary status and thereafter regularization to the casual workers. Those were the schemes in vogue in 1988 and 1993 for grant of temporary status and later, regularization. Much water has flown and the law has developed post Constitution Bench judgment in ***Umadevi.*** Also, in the unique facts of the present case, the nature of job that the women rice cleaners used to perform has itself vanished and they were required to be terminated on account of no job being left for them. Even otherwise, this Court is directing their regularization in service on completion of 10 years of service.

11) In view of the above directions, I proceed to pass the following order:

i) Judgment and order dated 9 July 2013 passed in Complaint No. CGIT-2/1 of 2010 is not disturbed to the extent of direction for reinstatement. However, direction for payment of back wages is set aside.

ii) Judgment and order dated 13 August 2012 passed in Reference No. CGIT-2/14 of 2010 is set aside and modified by directing that the Petitioner shall grant the benefit of regularization to only those women rice cleaners, who have completed 10 years of service and who continued to work till attaining the age of superannuation. Any break in their service on account of their terminations shall be ignored and the intervening period shall be treated as eligibility service for pension.

iii) Upon being treated as regular Group D employees with effect from dates of completion of 10 years of service, the concerned women rice cleaners shall be paid all retirement benefits from the dates of attaining the age of retirement. Their pay shall be notionally fixed from the dates of regularization and they shall not be entitled to actual arrears of pay and allowances.

iv) If any women rice cleaner still continues to remain in service, they shall be paid salary and wages of regular employee from the month of October 2026 as per notional pay fixation from the dates of completion of 10 years of service.

v) All consequential benefits arising out of this Order shall be paid to the concerned women rice cleaners as expeditiously as possible preferably within a period of four months.

vi) The Petitioner shall reach out to the concerned women rice cleaners who are found eligible for regularization in terms of this order and though they may not have intervened in the Petitions.

12) With the above directions, both the Writ Petitions are **partly allowed and disposed of**. Rule is made partly absolute. There shall be no order as to costs.

13) In view of disposal of Writ Petitions, nothing would survive in the Interim Application and the same stands **disposed of**.

[SANDEEP V. MARNE, J.]

Signed by: Megha S. Parab
Designation: PA To Honourable Judge
Date: 19/10/2026 18:22:24