



W.P.Nos.10021 & 10024 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.Nos.10021 & 10024 of 2021

R.Krishna Pillai

... Petitioner in WP.No.10021/2021

P.R.Parithivaanan

... Petitioner in WP.No.10024/2021

Vs.

1.Union of India, rep. by
Chairman, Railway Board,
Rail Bhavan, New Delhi – 1.

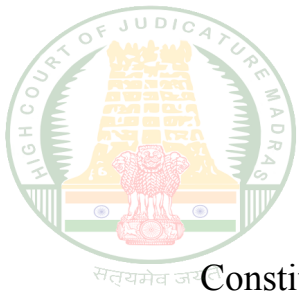
2.General Manager,
Southern Railway,
Park Town, Chennai – 3.

3.Chief Personnel Officer,
Southern Railway,
Park Town, Chennai – 3.

4.The Registrar,
Central Administrative Tribunal,
Chennai Bench.

... Respondents in both WPs

Common Prayer: Writ Petitions filed under Article 226 of the



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Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of the 4th respondent Tribunal in its order dated 29.01.2020 made in O.A.Nos.1770 & 1771 of 2013, quash the same and consequently allow the O.As, as prayed for.

(in both WPs)

For Petitioners : Mr.Karthick Raja
for Mr.Menon

For R1 & R3 : Mr.M.Vijay Anand

For R2 : No appearance

For R4 : Tribunal

COMMON ORDER

(Order of the Court was made by *M.S.RAMESH, J.*)

The brief facts involved in both these Writ Petitions are as follows:-

1.1 Both the writ petitioners were engaged as casual labourers by the respondents 2 and 3 between 1961 and 1971 and later absorbed in regular posts sometime between 1973 and 1983 as khalasis and both of them have retired now. The petitioners were originally engaged as casual labourers and thereafter, appointed as regular railway employees.



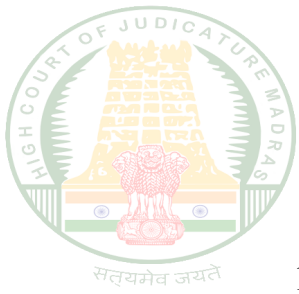
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1.2 Insofar as the cases of casual labourers in the Open Line Category of railway servants are concerned, half of their period as casual labourers would be counted for the purpose of retiral benefits. However, such a benefit is not extended to casual labourers on the projects.

1.3 When the respondents herein had claimed that the earlier services of these petitioners were only as casual labourers on the projects, the petitioners had challenged the same before the Central Administrative Tribunal (hereinafter referred to as 'CAT') in R.A.No.62 of 2000 and M.A.No.75 of 2001 in O.A.Nos.646 of 1991 and 532 of 2002, praying to treat them as Open Line Casual Labourers together with all the benefits available to the Open Line Casual Labourers. Both these OAs were rejected by CAT through its orders dated 23.08.2001 and 11.04.2003 respectively.

1.4 The writ petitioners along with similarly aggrieved casual labourers had challenged both the rejection orders before this Court in WP.Nos.2554 of 2002 & 1351 of 2004 and a Co-ordinate Bench of this Court had passed a common order on 11.10.2007 and allowed the Writ Petitions.



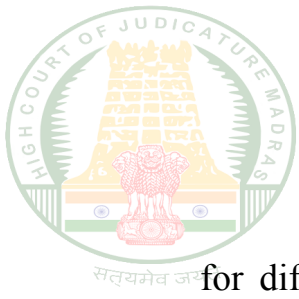
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1.5 The further appeal by the respondents herein before the Hon'ble Supreme Court in SLP(Civil) Nos.13015 - 13016 of 2008 was dismissed on 26.09.2008 by finding that the High Court after examining the records has recorded a finding of fact that the petitioners herein are Open Line Casual Labourers, which finding cannot be interfered with and accordingly, dismissed the appeals.

1.6 Thereafter, the respondents had partially implemented the order passed in WP.Nos.2554 of 2002 & 1351 of 2004 on 24.12.2008 and 22.04.2010, by treating the petitioners as Open Line Casual Labourers and including 50% of the services rendered by them, after completion of 6 months from the date of their engagement as casual labourers.

1.7 Since there was no full compliance, the petitioners had preferred a contempt petition in C.P.No.263 of 2013 and by an order dated 25.04.2013, this Court had recorded the compliance by the respondents through their proceedings dated 24.04.2013 and closed the Contempt Petition. However, when it was later realized that the order dated 24.04.2013 will not amount to full compliance and that the petitioners have been denied certain benefits that were extended to their immediate juniors, namely C.Vishnu Prasad and V.Radhakrishnan respectively, they sought



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for difference of the monetary benefits and revision of their pensionary benefits before the CAT in O.A.Nos.1770 & 1771 of 2013. The CAT in its common order dated 29.01.2020 had however held that the petitioners herein are not entitled to get retrospective promotions and consequent arrears of pay and reliefs and thereby dismissed the stay applications. This order of rejection dated 29.01.2020 is under challenge in the present Writ Petitions.

2. According to the learned counsel for the petitioners, when the Co-ordinate Bench of this Court had already allowed the claim of the petitioners in the order passed in WP.Nos.2554 of 2002 & 1351 of 2004 dated 11.10.2007, the respondents are bound to extend all the monetary benefits, on par with their immediate juniors.

3. The learned counsel for the respondents 1 and 3 submitted that in compliance with the orders of this Court dated 11.10.2007, the pay of the petitioners were revised and all the benefits were extended by treating them as project casual labourers and they cannot claim the benefits, on par with their juniors.



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4. Initially the Railways claimed that these petitioners were casual labourers on projects and therefore, were not entitled for the benefits on par with the casual labourers in the Open Line Category. When this objection was challenged by the petitioners before this Court in W.P.Nos.2554 of 2002 and 1351 of 2004, a Co-ordinate Bench of this Court had found that the respondents herein have not produced any records to substantiate the stand that they were casual labourers on the projects. It was recorded therein that in the casual labour cards issued to the petitioners, they were not referred to have been engaged as project workers. The CAT also took note of the fact that the petitioners were entrusted with the signal maintenance work, which units falls under the operation and maintenance of railway system and work is of permanent nature, apart from recording that they were engaged continuously in various Units/Divisions/Stations unlike the project work, which terminates with the completion of project and allowed both the Writ Petitions and the relevant findings read as follows:-

..... “14. As could be seen from the records, the petitioners were entrusted with the signal maintenance work and they were directed to carry out maintenance of



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signalling, lighting lower quadrant to upper quadrant, mechanical signalling and electrical signalling. According to sub-para (a) of Para 2001 of the Indian Railway Establishment Manual, as has been extracted supra, 'Casual Labour so engaged in the operation and maintenance of railway system is referred to as open line casual labour'. There cannot be any doubt that the signalling unit of the Railways falling within the 'operation and maintenance of railway system' and is a work of permanent nature unlike other project works, which would come to a close with the completion of the project entrusted. Therefore, it definitely falls within the definition of 'work of permanent nature' and therefore, the casual labour attending such permanent nature of work are undoubtedly the Casual Labour working in Open Line. Therefore, there is no hesitation for us to hold that the petitioners are the Casual Labour working in Open Line.

15. Further more, as could be seen from the materials placed on record, the petitioners were transferred from one Unit/Division/Station to another, which could never happen in case of a project worker, who would be engaged only for a particular project and their employment will be over with the closure of the



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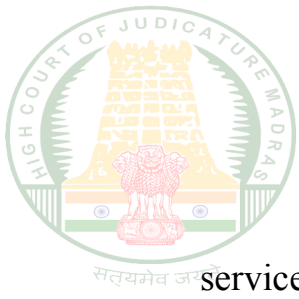
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said project. But, in the case of the petitioners, they were engaged continuously before their regularisation in various Units/Divisions/Stations unlike the Project Labour.

16. For all these reasons, when at no point of time, the petitioners were treated as Casual Labourers working on a project, and when there is no evidence produced on the part of the respondents to substantiate their stand that the petitioners were working only as Casual Labourers on a project and when there are abundant materials placed on record by the petitioners that they, all through, were working only in Open Line, it must be held that the petitioners are working only in Open Line and thus they are entitled to the relief sought for. But, the Tribunal, without appreciating the materials placed on record in their proper perspective has arrived at an erroneous conclusion to dismiss the claim of the petitioners, resulting in miscarriage of justice, thus calling for our interference.

In the result, both these writ petitions are allowed, as prayed for. No costs.”

5. In service jurisprudence, when a set of employees have certain



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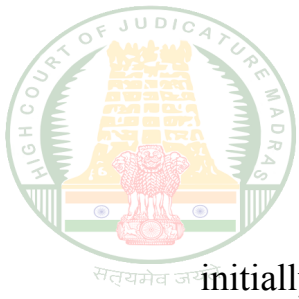
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service/monetary benefits, the employer cannot deny the same benefits to other similarly placed employees, even if they had not approached the Courts and obtained orders. This legal ratio has been reiterated by the Hon'ble Supreme Court in several of its decisions including the decision in '**State of Uttar Pradesh Vs. Aravind Kumar**' reported in **2015 1 SCC 157**.

The relevant portion of the order reads thus:-

.....“22.1. Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.”

6. In the instant case, admittedly, one Mr.C.Vishnu Prasad, who was



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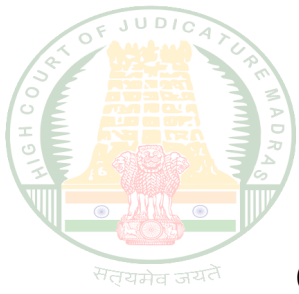
initially engaged as casual labourer on 16.03.2003, is a junior to Krishna Pillai (petitioner in W.P.No.10021 of 2021), who was engaged on 01.05.1971. Likewise, one Mr.V.Radhakrishnan appointed on 20.07.1976 is a junior to P.R.Parithivaanan (petitioner in WP.No.10024 of 2021) who was appointed on 11.06.1973. However, when the respondents had extended the benefits pursuant to the orders passed by this Court, the following discrepancies in their individual cases were found:-

Krishna Pillai (Petitioner in WP.No.10021/2021)

- a) Date of absorption into regular establishment has been shown as 15.04.1981, which requires to be given effect from 29.12.1977 when his junior C.Vishnu Prasad was absorbed;
- b) His promotion as ACTM (Semi Skilled) should be with effect from 06.02.1981;
- c) The benefit of reclassification as a skilled workman with retrospective should be with effect from 06.02.1981, on par with his junior.

P.R.Parithivaanan (Petitioner in WP.No.10024/2021)

- a) Date of absorption into regular establishment has been shown as



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08.08.1983, which requires to be given effect from 23.05.1979 when his junior V.Radhakrishnan was absorbed;

- b) His promotion as ACTM (Semi Skilled) should be with effect from 14.05.1981;
- c) The benefit of reclassification as a skilled workman with retrospective effect should be with effect from 06.02.1981, on par with his junior.

7. The CAT however, had failed to take the aforesaid factors into consideration and had rejected the claim of the petitioners for retrospective promotions and consequential monetary benefits. In view of the above reasonings, the order of the CAT cannot be sustained.

8. Accordingly, these Writ Petitions stand allowed and the impugned order dated 29.01.2020 passed by the Central Administrative Tribunal in O.A.Nos.1770 & 1771 of 2013, is hereby quashed. Consequently, there shall be a direction to the respondents 1 to 3 herein to pass appropriate orders, extending the benefits of retrospective promotion and consequential monetary benefits to both the petitioners herein, on par with their



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respective juniors, namely C.Vishnu Prasad and V.Radhakrishnan, within a period of four (4) weeks from the date of receipt of a copy of this order, in accordance with the findings in this order. No costs.

[M.S.R, J.]

[N.S, J.]

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Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

Internet: Yes/No

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To

1.The Chairman,
Union of India,
Railway Board,
Rail Bhavan, New Delhi – 1.

2.The General Manager,
Southern Railway,
Park Town, Chennai – 3.

3.The Chief Personnel Officer,
Southern Railway,
Park Town, Chennai – 3.

4.The Registrar,
Central Administrative Tribunal,
Chennai Bench.

5.The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH, J.
and
N. SENTHILKUMAR, J.

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