

PETITIONER:
DELHI MUNICIPAL KARAMCHARI EKTA UNION (REGD.)

Vs.

RESPONDENT:
P.L. SNGH & ORS.

DATE OF JUDGMENT 07/12/1987

BENCH:
VENKATARAMIAH, E.S. (J)
BENCH:
VENKATARAMIAH, E.S. (J)
SINGH, K.N. (J)

CITATION:
1988 AIR 519 1988 SCR (2) 174
1988 SCC Supl. 95 JT 1987 (4) 617
1987 SCALE (2) 1370

ACT:

Constitution of India, Articles 14 & 16: Equal pay for equal work-Daily rated workmen working for a number of years at wages lower than minimum salary of regular incumbents-Held entitled to wages at minimum of pay scale.

Labour Law: Daily rated workers working as such for eight years-Regularisation/absorption of-Whether permissible.

HEADNOTE:

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The daily rated Vaccinators/lmmunisors working under the Delhi Municipal Corporation for more than eight years sought regularisation of their services and payment of wages at par with regularly appointed incumbents doing the same kind of work. On a reference the Industrial Tribunal took the view that the workmen concerned were not entitled to be regularised.

Allowing the appeal by special leave,

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HELD: The Vaccinators/lmmunisors involved in the appeal are entitled to be regularised. [176G]

There was no justification for the respondent Corporation extracting the same amount of work from the workmen concerned on payment of daily wages at rates lower than the minimum salary which was being paid to other workmen who have been recruited regularly even though the workmen involved in the case have been working for a number of years. [176C-D]

The respondent Corporation to pay them wages at the rate equivalent to the minimum pay in the pay scale of regularly employed Vaccinators/lmmunisors without any increments with effect from the date of reference. They are also entitled to the corresponding dearness allowance. [176F]

The respondent Corporation to prepare a scheme on a rational basis for absorbing as far as possible the workmen involved in the case

175

as regular Vaccinators/lmmunisors within six months. Process of absorption to be completed within eight months. Arrears

of salary and allowance to be paid within four months. 1 5 [176G-H]

Daily Rated Casual Labour employed under P & T Department through Bhartiya Dak Tar Mazdoor Manch v. Union of India & Ors., [1987] 2 SCALE, X44 and U.P. Income-tax Department Contingent Paid Staff Welfare Association v. Union of India & Ors., (W.P. No. 1870 of 1986), followed.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3921 (NL) of 1987.

From the Award dated 15.5.1987 of the Industrial Tribunal No. III. Delhi in Industrial Dispute No. 157 of 1981/312 of 1987.

P.N. Gupta for the Appellants.

R.B. Datar and Ranjit Kumar for the Respondents.

The following order of the Court was delivered:

O R D E R

Special leave granted. The appeal is heard. The appellant is the union of employees in the Delhi Municipal Corporation. Some of the members of the appellant union have been working as Vaccinators/Immunisors on daily wages under the Delhi Municipal Corporation for more than eight years whereas many others who have been regularly appointed and are doing same kind of work are being paid higher salary and allowances every month. Even though the Vaccinators/Immunisors who have been working on daily wages have been working for a long number of years no action has been taken by the Delhi Municipal Corporation for regularising their services. In view of the disparity in the payment of wages and the neglect on the part of the Corporation regarding the regularisation of the services of the daily rated workmen there arose an industrial dispute and the dispute was referred by the competent authority for adjudication to the Industrial Tribunal No. 3, Delhi under a notification dated 23.11. 1981. The question which was referred to the Tribunal was:

"Whether the workmen mentioned in Annexure 'A' need to be regularised as Vaccinators/Immunisors in the scale of Rs.260-430 and if so, from what date and what directions are necessary in this matter?"

176

After hearing the matter the Tribunal agreed with all the contentions of the appellants but it held that no relief could be granted to them and that they should approach either the High Court or the Supreme Court for that purpose. Accordingly the Tribunal passed an award nearly six years after the date of the reference that the workmen concerned were not entitled to be regularised as Vaccinators/Immunisors in the scale of Rs.260-430. Aggrieved by the award of the Tribunal the appellant has filed this appeal by special leave.

After hearing the learned counsel for the parties we find that the Delhi Municipal Corporation has practically no tenable defence to the claim made by the workmen. There is no justification for the Corporation extracting the same amount of work from the workmen concerned on payment of daily wages at rates lower than the minimum salary which is being paid to other workmen who have been recruited regularly even though the workmen involved in this case have been working for a number of years. Nearly six years have elapsed from the date of the reference but without any

change in the attitude of the Corporation.

Following the decision of this Court in Daily Rated Casual Labour employed under P & T Department through Bhartiya Dak Tar Mazdoor Manch v. Union of India Ors., [1987] 2 SCALE, page 844 and our decision in U.P. Income-tax Department Contingent Paid Staff Welfare Association v. Union of India & Ors., (Writ Petition No. 1870 of 1986 decided on December 4, 1987 we direct the respondent Delhi Municipal Corporation to pay the Vaccinators/ Immunisers involved in this appeal wages at the rate equivalent to the minimum pay in the pay-scale of regularly employed Vaccinators/ Immunisers without any increments with effect from the date of the reference i.e. 23.11.1981. The workmen concerned are also entitled to the corresponding dearness allowance. We also direct the Delhi Municipal Corporation to prepare a scheme on a rational basis for absorbing as far as possible the workman involved in this case as regular Vaccinators/Immunisers. This order is made in substitution of the award passed by the Tribunal. The arrears of salary and allowance payable under this order shall be paid within four months. The scheme for absorption shall be prepared within six months and the process of absorption shall be completed within eight months from today. The appeal is accordingly allowed with no order as to costs.

P.S.S.

Appeal allowed.

177