

Supreme Court of India

Secretary, Ministry Of ... vs Sakkubai And Anr. on 2 April, 1997

Equivalent citations: JT 1998 (9) SC 297, (1997) 11 SCC 224

Bench: S V Manohar, V Khare

ORDER

1. Delay condoned in SLP (C) No. 8045 of 1997 [CC No. 1269 of 1995].

2. Leave' granted in the special leave petitions.

3. Part-time casual workers in Posts and Telegraphs Department, Ministry of Communications filed applications before different Benches of the Central Administrative Tribunal claiming the benefit of the Scheme framed by the said Department dated 12-4-1991 for the purpose of granting temporary status and regularisation to casual labourers. This Scheme is designated as "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme" which has been framed pursuant to the directions given by this Court in Daily Rated Casual Labour v. Union of India . The Tribunals have held that part-time casual workers are also covered by the said Scheme. Hence the present appeals have been filed before us.

4. Clauses 1 and 2 of the. Scheme are as follows :

1. 'Temporary Status' would be conferred on the casual labourers in employment as on 29-11 -1989 and who continue to be currently employed and have rendered continuous service of at least one year: During the year they must have been engaged for a period of 240 days (206 days in the case of offices observing five days' weeks).

2. Such casual workers engaged for full working hours viz. 8 hours including 1/2 hour's lunchtime will be paid at daily rates on the basis of the minimum of the pay scale for a regular Group 'D' official including DA, HRA and CCA.

5. The Scheme therefore, quite clearly covers only those casual workers who are engaged full-time for eight working hours, and the benefits under the Scheme are conferred on those casual workers who are so covered.

6. The respondents, however, have relied upon a letter dated 17-5-1989 issued by the Government of India, Ministry of Communications, Department of Posts giving a clarification regarding casual labourers and part-time casual labourers. The need for the clarification arose because by virtue of the notification dated 24-2-1989 the schedule annexed to the Indian Posts and Telegraphs (Group 'D' Posts) Recruitment Rules, 1970 was amended. As a result of the amendment under the head "Subordinate Offices" in Item II the following entries were inserted in column 9 as follows :

In the Schedule annexed to the Indian Posts and Telegraphs (Group 'D' Posts) Recruitment Rules, 1970, under the heading 'Subordinate Offices' in Item II, in column 9, the existing entries '100% Direct Recruitment' shall be substituted by the following:

By means of an interview from amongst the categories specified and in the order indicated below. Recruitment from the next category is to be made only when no qualified person is available in the higher category.

- (i) Extra-departmental agents of the recruiting division or unit in which vacancies are announced.
- (ii) Casual labourers (full-time and part-time) of the recruiting division or unit.
- (iii) Extra-departmental agents of neighbouring division or unit.

Explanation. - For Post Division, the neighbouring division will be the Railway Mail Service Division and vice versa.

- (iv) Nominees of the Employment Exchange.

7. Thus, instead of 100% direct recruitment to these posts, the persons who were described in items (i) to (iv) of that notification were given preference for appointment. Item (ii) of the notification refers to casual labourers (full-time and part-time) who were thus given preference for absorption in the posts in question. As a result of the aforesaid letter of 17-5-1989, it was clarified (in para 2) that all daily-wagers working in Post Offices or in RMS Offices and other offices set out therein are to be treated as casual labourers. Those casual labourers who are engaged for a period of eight hours a day should be described as full-time casual labourers. Those casual labourers who are engaged for a period of less than eight hours a day should be declared as part-time casual labourers. All other designations should be discontinued.

8. The letter also gives priorities which are to be observed in recruitment to Group 'D' posts in para 3. The priorities are as follows :

- (i) NTC Group 'D' Officials.
- (ii) EDAs of the same Division.
- (iii) Casual labourers (full-time or part-time. For purpose of computation of eligible service, half of the service rendered as part-time casual labourer should be taken into account. That is, if a part-time casual labourer has served for 480 days in a period of 2 years he will be treated, for purposes of recruitment to have completed one year of service as full-time casual labourer).
- (iv) EDAs of other divisions in the same region.
- (v) Substitutes (not working in metropolitan cities).
- (vi) Direct recruits through employment exchanges.

9. The respondents have emphasised item (iii) which basically equates two years of service as a part-time casual labourer with one year's service as a full-time casual labourer. They have submitted that in view of this equation they should also have been included in the Scheme framed of 12-4-1991 on similar terms. There is some justification for this submission. However, the Scheme is for granting temporary status as well as regularisation. It is, however, stated before us by the learned Counsel for the appellants that the priorities for absorption in Group 'D' posts which were set out in the letter of 17-5-1989 are still in force and that part-time casual labourers are also entitled to absorption as per the said letter. The Scheme of 12-4-1991 is merely for the purpose of conferring temporary status on full-time casual labourers. It does not take away the benefit of absorption conferred on part-time casual labourers in terms of the letter of 17-5-1989. He has also pointed out that it is difficult to confer temporary status on part-time casual labourers. However, they will be absorbed in accordance with the priorities set out in the letter of 17-5-1989 provided they fulfil the eligibility criteria.

10. The Tribunal, in our view, was not right in coming to the conclusion that the Scheme for conferring temporary status on full-time casual labourers is also applicable to part-time casual labourers. In view of the clarification which has been made by the learned Counsel for the appellants, we do not find it necessary to give any further directions.

11. Learned Counsel appearing for the respondents in civil appeal arising out of SLP (C) No. 11906 of 1996 has submitted that the respondents were in fact full-time casual workers and not part-time casual workers. It is not possible for us to examine this contention since it is entirely a question of fact and in case the respondents; are claiming the benefit of the Scheme off 12-4-1991, it will be for them to take such ] appropriate steps as may be available to them.

12. The appeals are, accordingly disposed] of. In the circumstances there will be no order as to costs.