

(2008) 09 SC CK 0114

Supreme Court of India

Case No: Civil Appeal No. 5474 of 2008 (Arising out of SLP (C) No. 11902 of 2006)

Union of India (UOI) and Another

APPELLANT

Vs

S. Nagarajan

RESPONDENT

Date of Decision: Sept. 1, 2008

Hon'ble Judges: R. V. Raveendran, J; J. M. Panchal, J

Bench: Division Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. Leave granted. Heard both the parties.
2. The respondent was appointed as a casual employee in the Central Cattle Breeding Farm run by the first respondent. In 1992, he was arrested in connection with some criminal case. He reported back on duty on 28.2.1993. The second appellant did not allow him to join duty, as he was involved in a criminal case. The respondent approached the Central Administrative Tribunal, Chennai Bench in OA No. 1332/1993. The said OA was dismissed by an Order dated 28.3.1995 in view of the pendency of the criminal case, with an observation that if respondent was exonerated, it will be open to appellants to re-engage the respondent.
3. In the year 2001, the respondent was acquitted in the criminal case. He gave a representation for reinstatement and grant of temporary status. As he was not reinstated with conferment of temporary status, the respondent again approached CAT in OA No. 683 of 2002. That OA was disposed of with a direction to dispose of the representation. The representation was accordingly considered but rejected on 8.10.2002 on the ground that no casual workers were then being appointed. The rejection was again challenged in OA No. 950/2002 which was dismissed on 9.1.2003. The rejection by the tribunal was challenged in WP No. 3974 of 2003. The Division Bench of the Madras High Court has allowed the said petition in part, in the impugned order dated 15.2.2006. It has directed that the respondent should be

taken into appointment within thirty days from the date of receipt of the order, retrospectively from 9.10.2003 as in the case of one M. N. Paranthaman. The High Court also directed that the respondent shall not be entitled to any monetary benefits for the past period but such past period could be taken into account for the purpose of increment and other benefits in future. The said order is challenged.

4. On the facts and circumstances, we are of the view that the High Court was not justified in directing retrospective appointment or continuity of service. Nor could there be any direction for regular appointment in the absence of vacancies. As respondent was not in service as on 1.9.1993, he was also not entitled to claim temporary status under the relevant scheme.

5. The learned Counsel for the respondent submitted that having regard to the order dated 28.3.1995 passed by the Central Administrative Tribunal in the first round of litigation, which had attained finality, the respondent was entitled to relief, on being acquitted in the criminal case. He submitted that on the facts of this case, the decision in [Secretary, State of Karnataka and Others Vs. Umadevi and Others](#), would not apply.

6. To put an end to the litigation which has gone into several rounds, and having regard to the facts and changed circumstances, the learned Counsel for the appellants submitted that the respondent can at best be taken back into service only as an ad hoc casual employee (without any benefits of a regular employee including increments) and considered for regular appointment when any suitable vacancy arises. The learned Counsel for appellants also made it clear that the above will be subject to the following:

(i) The respondent will not be entitled to increments or other benefits available to be regular employees, unless and until he is regularly appointed.

(ii) This shall not be treated as a precedent by anyone else to claim similar relief. The learned Counsel for the respondent is not in a position to show entitlement for any better relief. We are therefore of the view that the suggestion is reasonable and merits acceptance.

7. In view of the above, we allow this appeal and modify the order of the High Court by directing the appellants to re-employ the respondent as a fresh ad-hoc employee within three months from today, provided he makes a written application to the second appellant in this behalf. Thereafter, he shall be continued as such ad-hoc employee till a regular vacancy arises in which he can be absorbed. He will not be entitled to any benefits available to regular employees until he is regularly appointed. This shall not be a precedent. Parties to bear their respective costs.