Dy. Conservator of Forest Vs. Shramjivi General Workers' Union

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Court : Gujarat

Decided On : Nov-10-2000

Reported in : [2001(89)FLR213]; (2001)ILLJ458Guj

Judge : P.B. Majmudar, J.

Acts : Industrial Disputes Act, 1947 - Sections 10(1)

Appeal No. : Special Civil Application No. 9002 of 1993

Appellant : Dy. Conservator of Forest

Respondent : Shramjivi General Workers' Union

Advocate for Def. : D.S. Vasavada, Adv.

Advocate for Pet/Ap. : R.V. Desai, Adv.

Judgement :

P.B. Majmudar, J.

1. Deputy Conservator of Forest (Extension Division), Palanpur has filed this petition under Article 227 of the Constitution of India challenging the award of Industrial Tribunal, Ahmedabad passed in Reference (IT) No. 247 of 1989.

2. By the aforesaid award the Industrial Tribunal, Ahmedabad has accepted certain demands raised by the workmen serving under the Forest Department at

Palanpur. The respondent - Shramjivi General Workers Union, Palanpur, Banaskantha had raised industrial dispute which was referred for adjudication under Section 10(1) of the Act by the Government of Gujarat, Labour and Employment Department, Gandhinagar to the Industrial Tribunal, Ahmedabad for its adjudication.

3. The aforesaid dispute relates to various demands relating to daily wage workers who are being represented by Shramjivi General Workers Union, Palanpur, 13 demands were raised by the Union and those demands are as under :

(1) Those rojamdar employees serving under the Deputy Conservator of Forest (Extension Division) at Banaskantha in Banaskantha District in various sub-divisions should be categorised and they should be given the work as (1) Chokidar, (2) Skilled Labourer etc.

(2) Those employees who are serving in the office of the Deputy Conservator of Forest (Extension Division) at Banaskantha and who have completed 240 days should be made permanent and should be given the benefits of permanency.

(3) To give necessary holidays to daily rated employees such as 26th January, Diwali and such other holidays etc.

(4) For giving one privilege leave for 20 days' service and 7 C.Ls. every year alongwith the medical leave.

(5) Those who are serving as Chokidars should be given necessary arms, sticks, boots etc.

(6) To provide four pairs of dress without charge and Rs. 15/- as washing allowance.

(7) Benefits to be given as per GR of the Government in Public Works Department and separate GR for the Forest Department should be directed to be published.

(8) Seniority list of the employees working in the office of the Deputy Conservator of Forest (Extension Division), Banaskantha should be published alongwith the seniority list of those employees who are working in sub-divisions and as per the

same, if at all required the proceedings for retrenchment should be taken.

(9) Employees should be given Identity Card at their costs.

(10) If, any chowkidar or labourer received any injury during the employment, he should be immediately admitted in the hospital at the costs of the Department.

(11) Daily allowance of Rs. 10/- may be given to the daily rated workmen till the demand No. 10 is adjudicated.

(12) As interim measure Rs. 100/- should be given to the daily rated employees till condition No. 11 is adjudicated.

(13) That the demands should be complied with from 22.8.1985 and the benefits may be given accordingly.

4. These were the demands which were raised on behalf of the Union and these demands were subject matter of the aforesaid dispute before the Industrial Tribunal.

5. It seems that, in the Forest Department daily rated employees are being recruited for carrying out certain work on behalf of the Department and for the benefits of these daily rated employees, aforesaid demands were raised by the union.

6. On behalf of the present petitioner who was the first party before the Industrial Tribunal, aforesaid demands were resisted by filing written statement at Exh. 19. In reply, it was pointed out that the persons employed to do work are not given definite work and that they are required to do work of rearing of plantation, protecting plantation, collecting fire wood etc. That some of the daily rated persons were discharging function of chowkidars and some are performing duties as guard. It is pointed out in reply that daily wagers are required to do work of erecting hedge, repairs of hedge etc. and that they are not required to do the work of labourer and the department is not taking the work of labourer from them. It was, therefore, stated that it is not necessary to categorise them in accordance with the nature of work taken from each of them and that they are employed to perform the

work which was required to be completed within stipulated time and on completion of the said work, their services are no longer required and even if particular work is over they are asked to perform other work at other project. They are not required to be made permanent simply because they have completed 240 days in a year.

7. So far as other demands are concerned, the same were also resisted on the ground that such employees are given the payment as per the Payment of Wages Act and they are not entitled to any leave etc. It was pointed that, since no work of chowkidar is given to them, question of providing them with arms and torch etc. does not arise. It is the say of the department in the written statement that, after completion of particular work which is seasonal in nature, they are not continued after the aforesaid seasonal work is over and therefore, there was no question of maintaining seniority list of such persons. On these and such other grounds demands raised by the union were resisted by the present petitioner.

8. On the basis of the aforesaid pleadings, the Industrial Tribunal, permitted the parties to lead the evidence in connection with their respective say in the matter.

9. So far as the respondent-union is concerned, one witness namely Mr. Barot was examined at Exh. 8 and said evidence is the only piece of oral evidence on record. It is pertinent to note that the present petitioner herein has not led any oral or documentary evidence. Therefore, as found by the Industrial Tribunal in para 4 of the judgment, except the aforesaid piece of oral evidence of Mr. Barot which was led by the respondent, there was no oral or documentary evidence on record. The Industrial Tribunal, therefore, was supposed to adjudicate upon the demands of the workmen on the basis of the aforesaid sole piece of oral evidence which was led on behalf of the respondent-union.

10. So far as demand No. 1 which relates to the directions to the first party to categories the daily labourers is concerned, the said demand No. 1 was not accepted by the Tribunal and the same was disallowed and the aforesaid part of the award was not subject of challenge at the instance of the respondent herein. Therefore, there is no necessity to go into the aforesaid demand No. 1 in the present petition.

11. The Industrial Tribunal accepted the demand No. 2 regarding giving permanency after completing 240 days as well as regarding demand No. 8 regarding preparing seniority list of the employees working under the District Office and Divisional Office of the Deputy Conservator (Extension Division), Banaskantha. Except the aforesaid two demands, rest of the demands have been rejected which is not challenged by the union. Therefore, in the present petition which is filed by the first party the questions which are required to be considered are (1) whether grant of aforesaid two demands by the Industrial Tribunal is justified or not and (2) whether the Industrial Tribunal has committed any error of law or jurisdiction while granting the aforesaid demands in adjudication of the aforesaid dispute. It seems that in the judgment which has been annexed by the Department, there are some mistakes. However, Mr. Vasavada has pointed out from the original award that only demand Nos. 2 and 8 are accepted by the Tribunal and rest of the demands are rejected.

12. So far as demand No. 2 is concerned, it pertains to granting of permanency to the employees who have served continuously for 240 days in the department. So far as the evidence, of Mr. Barot is concerned, the Industrial Tribunal has found that he has worked for 240 days continuously in a year, but he has not stated anything about other persons who are in service by stating that since how many days they are in service. The Industrial Tribunal without giving specific directions qua particular employee has passed the award in general manner by saying that those employees who have completed 240 days continuously in a calendar year should be given the benefit of permanency. It is required to be noted that the reference which is at the instance of the union is also not regarding giving benefit to any specific employee, but it was general in nature. The Tribunal has also ordered that those employees who have completed 240 days on 1.4.1989 by way of continuous service in each of four or more than four years preceding 1.4.1989 or has completed 960 days as on 1.4.1989 of service in the aggregate preceding 1.4.1989 should be made permanent w.e.f. 1.4.1989. It was also further found that, those who have completed such continuous service subsequent to 1.4.1989 should also be made permanent on such subsequent days. These directions were given by the Industrial Tribunal on the ground that if those who are working since so many years as daily rated emplyees are allowed to continue as daily rated

labourers for a long period without giving benefit of regular wages, it may amount to exploitation. Considering the facts and circumstances of the case, therefore, the Industrial Tribunal has granted the aforesaid demand demand No. 2 which relates to giving permanency benefit to such employees.

13. Similarly, demand No. 8 was granted regarding preparing seniority list so that employees can be given work as per their seniority and there may not be any pick and choose by the department in this behalf. It is observed by the Industrial Tribunal that, if such seniority list of daily rated employees is prepared, the same can be used at the time of retrenchment, and even for providing work, it will be useful. Therefore, as stated earlier the aforesaid two demands were granted by the Industrial Tribunal which is under challenge at the instance of the present petitioner who was the first party before the Tribunal.

14. At the time of hearing of this petition, it was argued by Mr. Desai, learned AGP for the petitioner that the Tribunal has not framed specific issue to adjudicate the dispute, and therefore, for want of specific issue on this point, the award of the Industrial Tribunal is vitiated. He further argued that, concerned labourers or employees were recruited by the department for particular project of the Forest Department and on completion of said work, on humanitarian ground they are absorbed in some other project of the department. Under these circumstances, even if they have completed more than 240 days, since in sub-stance they are appointed for doing seasonal work, they cannot be absorbed on the regular post. According to him, therefore, if they are required to be absorbed on regular post, the department may have to give full wages to them even though work may got be available and that the moment the project is over, it is open for the department to terminate their services. In his sub-missions, therefore, in the facts and circumstances of the case, the Industrial Tribunal has committed an error of law in granting the demands in favour of such employees by way of asking the department to make them permanent on completion of particular days of service.

15. Against the aforesaid arguments of Mr. Desai, Mr. Vasavada appearing for the respondent - Union has argued that, except filing the written statement, the department has not thought it fit to lead any evidence before the Industrial Tribunal

and that in any case, the Industrial Tribunal has not given any directions to absorb any particular employee since the demand was of general nature. The Industrial Tribunal has given general directions in the award that those employees who have completed particular days of service, are required to be absorbed in service on permanent basis so that employees who have put in services for so many years as daily rated employees may not be deprived of the permanency benefit or regular pay-scale. He further submitted that, there are employees in the department who have been allowed to serve as casuals labourers since last 22 to 25 years and that it is nothing but an exploitation of such labourers.

16. As against the aforesaid arguments of Mr. Vasavada, Mr. R. V. Desai, learned AGP has pointed out that the department has not led any evidence in the reply in this behalf. However, on instructions from one Mr. Pankani Sub-DFO, Palanpur who was present in the Court at the time of hearing Mr. Desai states that, there might be some cases where such casual labourers have served for about 10 to 12 years. From the aforesaid it is clear that, such casual labourers are allowed to serve continuously since years in the department by the Forest Department. It is not the case that, on completion of particular project, they are sent home. However, apart from that as the petitioner herein has not led any evidence to substantiate their say that particular employee was the employee for seasonal work, it is not possible for me to believe that such work will continue indefinitely for such a long time. Before the Industrial Tribunal the petitioner has not examined any witness nor has led any evidence even in the form of documentary evidence to justify their say that such employee was employed only for the temporary seasonal work. In absence of the aforesaid evidence, it is not possible for me to accept the oral say of the learned AGP which is raised for the first time before this Court in the present petition which is under Article 227 of the Constitution of India. While implementing the aforesaid award of the Industrial Tribunal, it will be for the petitioner herein to verify from the record whether any particular employee has completed those stipulated days for which he can be given benefit as per the award of the Industrial Tribunal. If, ultimately while implementing such award, if the petitioner has all information as per the record available with the department that the particular employee has not completed stipulated days, naturally, no benefit can be given to such employee and such employee therefore cannot get the

benefit of the award of the Industrial Tribunal. The award of the Industrial Tribunal is general in nature and if any employee raised his claim on the basis of such award, the petitioner naturally will have to verify whether he is entitled to such benefit of the award or not, and whether he has completed stipulated days of service as observed in the order or not.

17. The Tribunal, therefore, after considering the facts found that to continue an employee on such casual labour basis for indefinite period may result into unfair labour practice, and keeping the aforesaid fact in mind, if this general direction for regularizing employment of such casual labourer is given by the Tribunal, it cannot be said that the Tribunal has committed any error of law while passing the aforesaid order. At the cost of repetition, it is to be stated that the Government has not led any evidence to show as to how the work in question was of a seasonal nature or that on completion of particular project, the employees were sent home. On the contrary, it seems that for years to come employees are continued in service and as per the say of the learned A.G.P., on instructions, there are employees who have been continued in such fashion for more than 10 to 12 years. In fairness, therefore, it was the duty of the Department as a model employer to give them the benefit of permanency without exploiting them to serve in this similar fashion for all time to come.

18. Mr. Desai, however, has relied upon the judgment of the Apex Court in State of Himachal Pradesh v. Suresh Kumar Verma and Anr. 1996 I CLR 680 SC. In the aforesaid judgment, it has been observed by the Honourable Supreme Court that if the appointment is on daily wage basis and if it is not in accordance with the Rules, if employees' services are terminated due to coming to an end of Project employing them, directions to re-engage them in any other work or to appoint them against existing vacancies cannot be given. In the said case, some work-charged employees were per-forming duties of transitory nature and they were required to perform work of transitory nature which was of urgent nature. It was found by the Supreme Court that one temporary employee cannot be replaced by another temporary employee. However, so far as the facts of the present case are concerned, as stated earlier, in the Forest Department, the employees have been allowed to serve continuously for last so many years as casual labourers and it is

not even the case of the Department that their services have been terminated the moment the Project work is over. On the contrary, it is their say that such set of employees have been continued from time to time from one project to even another project as it seems ample work is available with the Department for various projects. The present petition arises out of an order of the Industrial Tribunal, wherein the basic question of unfair labour practice is also required to be considered.

19. Against the aforesaid arguments of Mr. Desai, Mr. Vasavada has relied upon the judgment of the Apex Court in Chief Conservator of Forests and Anr. v. Jagannath Maruti Kondhare and Ors., 1996 I CLR 680 S.C. In the aforesaid judgment, the Honourable Supreme Court has found that so far as Pachgaon Parwati Scheme in Pune District and social foresting work in Ahmednagar District which was undertaken by the Forest Department of the State Government of Maharashtra is concerned, the same was held to be an 'industry'. Considering the nature of the scheme which was undertaken by the Forest Department, the same cannot be considered as a part and parcel of the sovereign functions of the State. It was found that it was open for the workmen to invoke the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The relevant observations of the Honourable Supreme Court are required to be noted :-

'... We have given our due thought to the aforesaid rival contentions and, according to us, the object of the State Act, inter alia, being prevention of certain unfair labour practices, the same would be thwarted or get frustrated if such a burden is placed on a workmen which he cannot reasonably discharge. In our opinion, it would be permissible on facts of a particular case to draw the inference mentioned in the second part of the item, if badlis, casuals or temporaries are continued as such for years. We further state that the present was such a case inasmuch as from the materials on record we are satisfied that the 25 workmen who went to the Industrial Court of Pune (and 15 to the Industrial Court, Ahmednagar) had been kept on casuals for long years with the primary object of depriving them of the status of permanent employees inasmuch as giving of this status would have required the employer to pay the workmen at a rate higher than

the one fixed under the Minimum Wages Act. We can think of no other possible object as, it may be remembered, that the Pachgaon Parwati Scheme was intended to cater to the recreational and educational aspirations also of the populace, which are not ephemeral objects, but par excellence permanent. We would say the same about environment-pollution-care work of Ahmednagar, whose need is on the increase because of increase in pollution. Permanency is thus writ large on the face of both the types of work. If even in such projects, persons are kept in jobs on casual basis for years the object manifests itself; no scrutiny is required. We, therefore, answer the second question also against the appellants .... To bring home his submission regarding the unjust nature of the relief relating to regularization, Shri Bhandare sought to rely on the decision of this Court in Delhi Development Horticulture Employees' Union v. Delhi Admn. We do not think that the ratio of this decision is applicable to the facts of the present case inasmuch as the employment of persons on daily-wage basis under Jawahar Rozgar Yojna by the Development Department of Delhi Administration, whose claim for regularization was dealt with in the aforesaid case was entirely different from that of the scheme in which the respondents-workmen were employed. Jawahar Rozgar Yojna was evolved to provide income for those who are below the poverty line and particularly during the periods when they are without any source of livelihood and, therefore, without any income whatsoever. It is because of this that the Bench observed that the object of the Scheme was not to provide right to work as such even to the rural poor, much less to the unemployed in general. As against this, the workmen who were employed under the schemes at hand had been so done to advance objects having permanent basis as adverted to by us .... .. Insofar as the financial strain on the State Exchequer is concerned, which submission is sought to be buttressed by Shri Dholakia by stating that in the Forest Department itself the casual employees are about 1.4 lakhs and if all of them were to be regularized and paid at the rate applicable to permanent workmen, the financial involvement would be in the neighbourhood of Rs. 300 crores - a very high figure indeed. We have not felt inclined to bear in mind this contention of Shri Dholakia as the same has been brought out almost from the hat. The argument relating to financial burden is one of despair or in terrorem. We have neither been impressed by the first nor frightened by the second inasmuch

as we do not intend that the view to be taken by us in these appeals should apply, proprio vigore, to all casual labourers of the Forest Department or any other Department of the Government .... .. We wish to say further that if Shri Bhandare's submission is taken to its logical end, the justification for paying even minimum wages could wither away, leaving any employer, not to speak of model employer like the State, to exploit unemployed persons. To be fair to Shri Bhandare it may, however, be stated that the learned counsel did not extend his submission this far, but we find it difficult to limit the submission of Shri Bhandare to payment of, say fair wages, as distinguished from minimum wages. We have said so, because if a pay scale has been provided for permanent workmen that has been done by the State Government keeping in view its legal obligations and must be one which had been recommended by the State Pay Commission and accepted by the Government. We cannot deny this relief of permanency to the respondents-workmen only because in that case, they would be required to be paid wages meant for permanent workers. This right flows automatically from the relief of regularization to which on objection can reasonably be taken, as already pointed out. We would, however, observe that the relief made available to the respondents is not one which would be available ipso facto to all the casual employees either of the Forest Department or any other Department of the State. Claim of casual employees for permanency of for higher pay shall have to be decided on the merits of their own cases .....'

20. Mr. Vasavada next argued that, in any case, in the case of the casual workmen, who were serving as Plantation Watchmen in the Forest Department, an Industrial Dispute Was raised, being I.T. 386 of 1998, wherein the demand was that those employees who have served for more than two years as Watchmen to take care of the plantations of the Forest Department and the Tribunal had granted the said demand on the same lines in which the present demand was accepted by the Tribunal. The aforesaid Award was placed on record in Civil Application No. 2389 of 1999, which was earlier filed in the present Special Civil Application, and as per the said Award, which was passed in favour of the plantation watchmen of the Forest Department, similar demand was granted by the Tribunal and those watchmen who have completed 240 days of continuous service in four years have been given the benefit of permanency. The only difference is that, that was the

case of a particular category of employees, i.e. plantation watchmen of the Forest Department, and these are the categories of general employees of the Forest Department. On question being asked, Mr. Desai, learned A.G.P., on instructions, pointed out that so far as those watchmen serving as Plantation Watchmen are concerned, they were also serving on a particular project and that their services were continued from time to time from one project to another. It is pertinent to note that the aforesaid Award of the Tribunal in the aforesaid case was challenged before this High Court by way of Special Civil Application No. 468 of 1994 and this Court had summarily dismissed the aforesaid Special Civil Application and the said Award was confirmed. The aforesaid order of this Court was again challenged before the Supreme Court in Special Leave to Appeal (Civil) No. 5590 of 1996 and the Supreme Court dismissed the said S.L.P. and accordingly, the Award of the Tribunal was confirmed and ultimately, the Department has given benefit of the aforesaid Award to the aforesaid category of employees, who were serving as Plantation Watchmen. In that view of the matter also, there is no reason to take any different view which was taken earlier by the Industrial Tribunal in the case of Plantation Watchmen, who were also serving similarly on temporary casual basis as casual workmen and who were also appointed on a particular project for doing a project work.

21. In view of the aforesaid circumstances, it cannot be said that the Tribunal has committed any error of law while giving aforesaid benefit to the casual employees serving in the Forest Department of the State of Gujarat by accepting their demand No. 2 in so far as giving benefit of permanency after completing stipulated days of service is concerned. Similarly, proper justification is given by way of Demand No. 8 in so far as preparing seniority list is concerned so that there may be proper check at the time of even retrenchment or giving other benefits to such employees if proper seniority list is maintained by the Department of such casual labourers. Under the aforesaid circumstances, I do not see any justification for disturbing the aforesaid relief granted by the Tribunal. As stated earlier, however, the Award in question is merely of a declaratory nature and if benefit is claimed by any individual employee, such employee will have to prove that he has completed such stipulated days of service in the Department and only on that basis, ultimately, the Department will have to take decision in the light of the Award of the

Industrial Tribunal. By this Award, ipso facto, directly no benefit is straightaway given to any individual employee. It is also clarified that it would be open for the Department to give posting to the employees concerned whenever such work is available. If at a particular place work is not available, it would be open for them to transfer such employees where the work is available and the concerned workman will have to comply with such transfer. However, preferably, such transfer of employees may be confined to the particular District only. Department should also make attempts to see that no idle pay is required to be paid and, therefore, keeping that in mind, concerned employees should be posted at a place where work is available.

22. Now, I will deal with the first contention of Mr. Desai so far as non-framing of issues is concerned. Mr. Desai has relied upon the judgment of the Punjab & Haryana High Court in The Management of M/s. Chopra Motors Pvt. Ltd. v. P. N. Thukral & Anr. 1973 LIC 1025. In the aforesaid case, it was found by the Punjab and Haryana High Court that having framed one omnibus vague issue as to validity of a worker's dismissal (because of criminal misconduct) the Tribunal committed several errors in proper assessment of evidence and laid wrong burden of proof on the management in respect of points of fact not even agitated in the pleadings and which the management was never called upon in law to meet. Under that background, the High Court remanded the matter to the Tribunal. It was argued by Mr. Desai, therefore, that since no issues are framed, this Court should remand the matter to the Tribunal. I do not find any substance in the said argument firstly because at no point of time any request was made on behalf of the petitioner before the Tribunal to frame any particular issues. As a matter of fact, on the basis of the pleadings, the Tribunal allowed the parties to lead evidence on whatever point they wanted to lead. The demand in question was very much known to the petitioner as well as the respondent herein. Even otherwise, the petitioner could have requested the Tribunal to frame particular issue, though I am told that, normally, before the Industrial Tribunal since no strict procedure of Code of Civil Procedure is applicable, the Tribunal decides the cases by recording evidence on the basis of the pleadings of the parties, though of course, it is no doubt true, that it is desirable that from the pleadings, basic issues should be framed. However, in the instant case, it cannot be said that any

prejudice is caused to the petitioner, firstly because the petitioner has chosen not to lead any evidence. It is not the case where the petitioner was prevented from leading any evidence in respect of any specific demand. On the contrary, the petitioner has not led any oral or documentary evidence worth the name and even no request was made before the Tribunal to lead evidence at any point of time. The aforesaid argument before this Court at the time of hearing of this petition is nothing but an afterthought and it cannot be said that any prejudice is caused to the Department for want of any specific issue. It was open for the Department to lead whatever evidence they thought it fit before the Tribunal and if they were prevented from leading any evidence on this aspect, it would have been a different story. But they have not chosen to lead any evidence worth the name. It is now not open for the petitioner to take this technical contention that no issues were framed though, of course, they are not prejudiced by the same in any manner. Even otherwise, if the parties' attention is focused and if the party has not led any evidence on a particular point, it is not open for such party thereafter to make complaint whether any particular issue was framed or not. It was known to both the sides as to what was the controversy in question and if, therefore, the petitioner has not thought it fit to lead any evidence worth the name, it is not open for them low to make any grievance on this in a petition under Article 227 of the Constitution of India. I, therefore, do not find any substance in the aforesaid argument of Mr. Desai in this connection.

23. It was faintly submitted by Mr. Desai that in any case, this would be a case of back door entry. Now, this is merely an imagination on the part of the learned Advocate at the time of final hearing. No such point was argued before the Tribunal. The petitioner has remained silent after filing written statement. The concerned officer in-charge did not think it fit to even step into the witness box or produce any documentary evidence on the record. This matter arises out of industrial dispute and for years to come if the Department has utilised the services of employees without giving any benefit, it may amount to even unfair labour practice. It is now not open to them to take this issue especially when no evidence was led before the first Court. As stated earlier, this Court is not exercising appellate powers and this matter is confined to the record of the original authority, i.e., Industrial Tribunal. Under these circumstances, the aforesaid contention which

is raised for the first time is negatived and even otherwise having taken services of these employees for such a long time, it is now not open for them to argue that the employees were not recruited in accordance with law. If any such point was raised, the respondent could have led evidence, justifying their entry in the Department and could have pointed out that they were recruited by following proper procedure. Aforesaid argument is, therefore, made without any basis or supporting evidence in this behalf. The said contention is accordingly negatived. In any case, there is no reason to take any different view since the same benefits have been given to other set of employees of the very same Department who were working in the Plantation Department as Plantation Watchmen and who were similarly appointed by the Department. It has been fairly stated on behalf of the petitioner that those employees in the Plantation Department were also similarly recruited on the lines in which the employees of the respondent-Union have been recruited in the Department. In that view of the matter, I do not find any sub-stance in the said contention.

24. Before parting with this order, I would like to say that the Department should take reasonable care when the proceedings are pending before the original authority. It was the duty of the concerned officer to lead proper evidence and to place appropriate documentary evidence on the record. The negligence of concerned person in charge of the proceedings before the Tribunal is not required to be pardoned easily. I, therefore, direct the State Government to look into the matter and if it thinks fit, to take appropriate action against such officer, who was not vigilant in handling the aforesaid proceedings when it was pending before the Industrial Tribunal.

25. In view of what is stated hereinabove there is no substance in this Special Civil Application. The same is accordingly dismissed. Rule is discharged. Interim relief shall stand vacated.