



CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA

No. O.A. 350/01233/2016  
M.A. 350/00249/2018

Reserved on: 25.2.2020  
Date of order: 3.3.2020

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Karu Mehra,  
Son of Late Bal Gobinda Mehra,  
Residing at SBS T.C. Carriage More,  
Near Telephone Exchange Gate,  
Durgapur - 713 201.

.... Applicant

- V E R S U S -

1. Union of India,  
Service through the Secretary,  
Department of Tele Communication,  
Jogagog Bhawan,  
New Delhi,  
Pin -
2. Chief General Manager,  
Telecom,  
West Bengal Circle,  
1, Council House Street,  
2<sup>nd</sup> Floor,  
Kolkata - 700 001.
3. The G.M. Telecom Asansol,  
Asansol Telecom,  
District - Asansol - 4.
4. The DCM,  
O/o. The G.M. Telecom Asansol,  
Telecom District Durgapur Division,  
Durgapur - 16.
5. Sub- Divisional Engineer,  
Bharat Sanchar Nigam Limited,  
Industries Exchange,  
Durgapur - 1.

.... Respondents

*hch*



For the Applicant : Mr. M.K. Bandyopadhyay, Counsel  
For the Respondents : Mr. R. Mukherjee, Counsel  
Ms. P. Goswami, Counsel

**ORDER**

**Per Dr. Nandita Chatterjee, Administrative Member:**

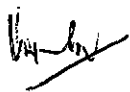
The applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

- (a) The Hon'ble Tribunal shall graciously be pleased to pass an order directing the concerned respondents their men, agents and subordinate officer to regularize the employment of the petitioner from casual Mazdur to Temporary Mazdur then regular Mazdur as per decision taken by the concerned authority time to time.
- (b) Such further or other order or orders be passed and/or directions be given as to Your Lordships may deem fit and proper."

2. Heard both ld. Counsel, examined pleadings, documents on record as well as judicial pronouncements cited by both Ld. Counsel in support of their respective contentions.

3. The submissions of the applicant, as articulated through his Ld. Counsel, is that, the applicant is working as a Casual Mazdur under Department of Telecommunications, Government of India, since 20.5.1996 (Annexure A1 to the O.A.) and, that, after the formation of BSNL in 2000, he was instructed to continue working with BSNL. The applicant continues to work as a Casual Mazdoor in BSNL till date.

4. That, Casual Labourers, junior to the applicant, who were appointed on 1.8.1996, 2.1.1997 and 29.10.1998 respectively, were recommended for grant of temporary status (Annexure A-4 to the O.A.), and, that, on 27.9.1999, another batch of 26 casual labourers were granted temporary status w.e.f. 12.2.1999 by the Siliguri Telecom District. Further, Casual Labourers who were junior to the applicant,



being engaged in 1997, were granted temporary status as per Annexure A-5 to the O.A.. On 2.2.2000, 1.3.2000 and on 29.7.2003, the Department of Telecommunications regularized 35 Casual Labourers as per Annexure A-5 to the O.A., and, that, left out cases were forwarded by BSNL on 29.7.2003 as well as on 25.8.2003 (Annexure A-2 and A-3 to the O.A. respectively) vide which it was recommended that the instant applicant was eligible for temporary status as on 1.8.1998.

Despite the fact that casual labourers, junior to the applicant, were regularized, the applicant, appointed since 1996, and, who was eligible for regularization since 1998, was left out of consideration arbitrarily and invidiously by the authorities.



Ld. Counsel for the applicant would cite the ratio in ***State of Punjab & ors. v. Jagjit Singh & ors. Civil Appeal No. 213 of 2013*** as well as the orders of the Central Administrative Tribunal, Ernakulam Bench in ***O.A. No. 539 of 2007 (D.Ravi & ors. v. Union of India & ors.)*** in support of his claim that the applicant's regularization should have been completed by the respondent authorities in a time bound manner.

5. Per contra, the respondents would controvert the claim of the applicant by arguing as follows:-

(i) That, a Scheme was framed by the Department of Telecommunications, Govt. of India, (circulated vide memo dated 7.11.1989), with respect to grant of temporary status and regularization of Casual Labourers. The said Scheme specified that temporary status would be conferred upon Casual Labourers who were currently employed and had rendered continuous service for at least one year.

The said Scheme categorically directed that there should be no fresh recruitment or employment of Casual Labourers, and, that, Casual

*Handwritten signature*

Labourers engaged only for specific works after 30.3.1985, should be retrenched after successful completion of such works. Subsequent instructions dated 22.6.1988 mandated that even for specific works in specified project and electrification circles, fresh recruitment of Casual Labourers should not be resorted to.

The said Scheme also laid down that normally no casual labour engaged after 30.3.1985 should be available for consideration for conferring temporary status and any left-over cases would be granted temporary status only with specific approval of the competent authority.

Vide Office Memorandum dated 12.2.1999, there was a complete ban on recruitment/engagement of Casual Labourers by the Department of Telecommunications. Thereafter, BSNL was formed on 1.10.2000 and in response to directions from the Corporate Office, the names of left-out Casual Labourers of West Bengal Circle were forwarded in 2003 for consideration of the Corporate Office.

(ii) With the judgment of the Hon'ble Apex Court in **Secretary, State of Karnataka v. Uma Devi & ors.** reported in **2006 (4) SCC 1**, the situation changed, and, as opined by the Learned Additional Solicitor General of India, the Scheme adopted by the Department of Telecommunications was not legally tenable after the judgment of Hon'ble Supreme Court in **Uma Devi (3)**, and, that, although the concerned Department may consider implementation of a fresh Scheme for regularization of Casual Labourers, the scope of retrospective implementation of the Scheme may not arise. Further, any new Scheme would have to follow principles in **Uma Devi (3)**. Ld. Additional Solicitor General further opined that any regularization prior to 10.4.2006 need not be disturbed by the querist organization.

*hsh*



(iii) Ld. Counsel for the respondents would further argue that as per the ratio of Hon'ble Apex Court in ***Bharat Sanchar Nigam Limited, Jammu v. Teja Singh*** in ***Civil Appeal No. 292 of 2009***, all Casual Labourers initially engaged during DOT period and who have continued in BSNL without confirmation of temporary status or who have not been regularized before 10.4.2006 are illegal. Accordingly, the claim of the applicant does not merit any consideration given such judicial pronouncements.

6. Both Ld. Counsel, however, would agree that given the fact that the applicant is working till date and that representations made by the applicant are admittedly pending for disposal, this O.A. may be disposed of by directing the respondent authorities to decide on the prayer of the applicant in terms of the ratio in ***Uma Devi (supra), Jagjit Singh (supra)*** as well as the order of ***CAT, Ernakulam Bench in D. Ravi & ors (supra)***.

7. Accordingly, the competent respondent authority is hereby directed to consider the representations of the applicant as at A-13 and A-18 of the O.A., if received at his end, within a period of 12 weeks from the date of receipt of a copy of this order. The decision arrived at should be taken in accordance with law and, particularly, in the light of the ratio held in ***Uma Devi (supra), Jagjit Singh (supra)*** as well as the order of ***CAT, Ernakulam Bench in D. Ravi & ors (supra)***. The claim of the applicant that incumbents engaged after him in DOT have been granted temporary status and regularized while his case was ignored, should be particularly examined by the authority concerned. Decision arrived at should be conveyed in the reasoned and speaking order to the applicant forthwith thereafter.

*hali*



8. With these directions, the O.A. is disposed of. There will be no directions on costs.

9. M.A. bearing No. 249 of 2018 arising out of O.A. praying for deletion of respondent No. 1 is disposed of accordingly.

*(Dr. Nandita Chatterjee)*  
*Administrative Member*

*(Bidisha Banerjee)*  
*Judicial Member*

**SP**

