

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 1360/99

New Delhi this the 27th day of April, 2000
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Sukhpal Singh
S/O Ekam Singh
R/O C-17, A Railway Colony,
Lajpat Nagar,
Jangpura Road,
New Delhi-24

.. Applicant

(None for the applicant)

Versus

1. Union of India through its
Secretary, M/O Communication,
Department of Telecommunication,
Sanchar Bhawan, New Delhi.
2. Chief General Manager,
Department of Telecommunication,
Sector 34 A,
Chandigarh.
3. General Manager, Telecom.,
Dept of Telecommunications,
Tax Building, Bhatinda.
4. Divisional Engineer(Admn. & Control),
Dept of Telecommunications,
Tax Building, Bhatinda.

.. Respondents

(By Advocate Sh. K.R.Sachdeva)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The applicant has filed this application alleging that the respondents have acted in illegal and unjustified manner in disengaging him without notice or retrenchment compensation in complete violation of Section 25 F of Industrial Disputes Act, 1947 and is neither conferring temporary status nor absorbing him in service, despite his continuous service of more than two years as a Driver. The applicant has, therefore, prayed to quash the oral order dated 1.3.99 and for a direction to the respondents to re-instate him with continuance in service and also ^{pay} his back wages.

2. None has appeared for the applicant even on the second call. Therefore, I am disposing of this OA after perusing the pleadings on record and hearing the learned counsel for the respondents.

3. The respondents in their reply have taken a preliminary objection, including the fact that the applicant was engaged as Driver through Contractor under Respondents 3-4 and as such he was not appointed directly by them in accordance with the Recruitment Rules. Shri K.R. Sachdeva, learned counsel for the respondents has submitted that in the circumstances of the case, the O.A. is not maintainable in the Tribunal as the applicant was employed through the Contractor with whom ~~they~~ were certain formal agreements and the applicant was, therefore, not an employee of the respondents department. He has also submitted that the applicant ^{has} himself referred to the alleged violations committed by the respondents in terms of Section 25 F of IDA, 1947. He has submitted that if applicant had any grievance against any one arising under the provisions of IDA, 1947 then again the Tribunal is not the correct forum but it would be ^{the} Labour Court. He has also relied on the order of the Tribunal (Chandigarh Bench) in Ram Pal Singh and Others Vs. U.T. Chandigarh through Secretary to Govt. Deptt. of Engineering, Chandigarh Admn. and Ors. (OA 365/Ch/99 with connected OAs) decided on 13.8.98. (Copy placed on record). He has submitted that the order passed by the Chandigarh Bench of the Tribunal is fully binding in the facts and circumstances of this case. He has also drawn my attention to the rejoinder filed by the applicant in which it has been stated, inter alia, that 'in spite of working under R-4, the respondents used to make payment through a contractor even though the applicant was directly working under R-4 and thereafter from 1.11.1997 he was working under R-3.' Learned counsel for the respondents has submitted that in the present case also the applicant had worked as Driver ^a ^{has} Contractor and not directly employed by the respondents. His contention, therefore, is that the applicant cannot be considered as an employee under the Union Govt. and the issues raised in this OA are also, therefore, not service matters which could be adjudicated by the Tribunal.

4. On perusal of the applicant's O.A. it is seen that apart from relying on the provisions of ^{the} IDA, 1947, the applicant himself

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has admitted that he was being paid through a Contractor, although he has submitted that he was working with Respondents 3-4 during the relevant period. The judgement of the Hon'ble Supreme Court in Secretary, Haryana State Electricity Board Vs. Suresh and Ors (JT 1999(2) SC 435) relied upon by the applicant has been dealt with in the order passed by the Chandigarh Bench dated 13.8.98 in Ram Pal Singh's case (supra).

5. The Tribunal in its ^{order, after} ~~order,~~ considering the relevant facts and law, including the judgement of the Hon'ble Supreme Court in Secretary, HSEB's case (supra) dismissed the application leaving it open to the applicant to approach the appropriate forum for redressal of his grievance in accordance with law.

6. Having regard to the facts and circumstances of this case, the ratio of the judgement of the Chandigarh Bench in Ram Pal Singh's case (Supra) ^{which is} is fully applicable to the present case, ~~in the circumstances~~, the OA is dismissed with liberty to the applicant to seek redressal of his grievance in the appropriate forum in accordance with law. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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