

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 1760/1999

New Delhi this the 8th day of November, 2000

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

Jaswinder Singh
S/O Sh. Gernail Singh
R/O EC-348 GS, Maya Enclave,
New Delhi.

.. Applicant

(None for the applicant)

Versus

1. Union of India through its
Secretary, Ministry of
Communication,
Dept. of Telecommunication,
Sanchar Bhawan, New Delhi.
2. Chief General Manager,
Dept. of Telecommunications,
Sector-34-A, Chandigarh.
3. General Manager, Telecom,
Dept. of Telecommunications,
Ferozpur.
4. Sub Divisional Officer (Telecom),
Dept. of Telecommunications,
Telephone Exchange, Kotkapura,
Faridkot (Pb).
5. Sub Divisional Officer (Group),
Dept. of Telecommunications,
Telephone Exchange, Muktsar,
Distt. Muktsar.

.. Respondents

(By Advocate Shri K.R. Sachdeva)

O R D E R (ORAL)

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

The applicant has sought a direction to quash the Oral Order passed by the respondents disengaging him from service w.e.f. 16.5.99, with a further direction to reinstate him with full back wages and continuance of service. He has also prayed for conferment of 'Temporary Status' and to absorb him in the service under the provisions of relevant Scheme prepared by the Departments.

19/

(17)

2. According to the applicant he was continuously working with the respondents as casual labourer for more than 6 years and therefore, he has completed more than 240 days of service in each year. On 9.11.98 he has stated that he was directed to discharge the duties of a driver under Respondent 5 and accordingly from 9.11.1998 he had been discharging the duties of driver and was being paid @ Rs.80/-per day on ACG-17. He has relied on the Scheme prepared by the respondents, known as the "Casual Labourers Grant of Temporary Status and Regularisation Scheme" which came into effect from 1.10.1989. He has also relied on the judgement of the Hon'ble Supreme Court in Secretary Haryana State Electricity Board. Vs. Suresh and Ors. (JT 1999(2)SC 435).

3. The respondents in their reply have controverted the above averments of the applicant. They have taken a number of preliminary objections, including the fact that the applicant is a permanent resident of Kotpura, which falls within the State of Punjab, and he has alleged to have worked under Respondents 2 -5 who are situated in that State. Therefore, they have contended that the present application should have been filed before the Chandigarh Bench of the Tribunal. They have also submitted that the subject matter of the OA ^{is by} covered under the Industrial Dispute Act, 1947, and in view of several judgements mentioned in Paragraph 2 of the counter reply, they have submitted that the Tribunal does not have jurisdiction in the matter. The respondents have filed their reply as far back as 11.11.1999 and it is noted that no rejoinder has been filed by the applicant to contravert the above

By

(18)

averments made by the respondents. They have submitted that they after 8.11.98 have never engaged the drivers. They have submitted that the Department has engaged the drivers through contractors and it is possible that the applicant might have been engaged through M/s Bakshish Singh, Contractor, Ferozepur City as per agreement between the said contractor and respondent No.3. That agreement with the contractor was terminated on 5.3.1999. They have also submitted that the contractor has also not made a party in the present OA and therefore, the OA is not maintainable for non-joinder of necessary party. Learned counsel for the respondents has also submitted that the issues and facts raised in the present case have been dealt with by the judgement of the Tribunal (Chandigarh Bench) in Ram Pal Singh and Others Vs. UT Chandigarh through Secretary to Govt. Department of Engineering Chandigarh Admn. and Ors (OA 365/Ch/99 with connected OAs) decided on 13.8.1998, which have been followed by the Tribunal (PB) in Gurdev Singh Vs. UOI & Ors (OA 2128/99) decided on 7.7.2000.

4. After careful consideration of the pleadings in the OA and the reply of the respondents together with the relevant judgements passed by the Tribunal (Supra), I find no merit in this application. Apart from the fact that, the Tribunal does not have any jurisdiction in the matter as the applicant was engaged through contractor and therefore, cannot be considered as Govt. servant. Therefore, having regard to Sections 14 and 19 of the ^{the} ~~the~~ Administrative Tribunals Act, 1985, OA is dismissed. No costs.

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