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Central Administrative Tribunal
Principal Bench

O.A. 2128/99

New Delhi this the 7 th day of July, 2000

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

Gurdev Singh,
S/o Munsha Singh,
R/o H.No. 2/10-A, Street No.23,
Indira Park,
Palam Colony,
New Delhi-110045.

... Applicant.

(By Advocate Mrs. Rani Chhabra)

Versus

1. Union of India,
through its Secretary,
Ministry of Communication,
Department of Telecommunication,
Sanchar Bhawan, New Delhi.
2. Chief General Manager,
Department of Telecommunications,
Punjab Division,
Chandigarh.
3. General Manager (Telecom),
Department of Telecommunications,
Ferozepur.
4. Divisional Engineer, Telecom,
Department of Telecommunications,
Abohar District Ferozpur.
5. Sub Divisional Engineer (Group),
Department of Telecommunications,
Abohar,
Dist. Ferozpur.

... Respondents.

(By Advocate Shri K.R. Sachdeva)

O R D E R

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

The applicant has filed this application alleging that the respondents have taken illegal and unjustifiable actions in disengaging him from service without notice or retrenchment compensation in complete violation of Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the I.D. Act') and in neither conferring

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temporary status nor absorbing him in service despite his continuous service of more than three years.

2. The applicant has stated that he was disengaged by order dated 24.8.1999 which he has challenged in this application. He has prayed for quashing of this order together with a direction to the respondents to reinstate him with continuance in service and back-wages and to confer on him temporary status with effect from the date he became eligible and any other orders.

3. According to the applicant, he had been engaged directly by the Department and since 15.2.1996 he was paid on ACG-17 at Rs.1800/- per month upto 30.4.1997, but thereafter with effect from May, 1997 he has been paid through a contractor. Mrs. Rani Chhabra, learned counsel for the respondents has also submitted written submissions which are placed on record. According to her, the applicant was never engaged through the contractor. The real employer of the applicant was the respondents/Department for whom he has been working as a driver. She has stated that payment for the work of the applicant has been made from the exchequer, although it might be paid through the contractor, who was the agent of the Department. Hence, there was a direct relationship of master and servant between the applicant and the employer.

4. The above averments have been stoutly denied by the respondents and I have also heard Shri K.R. Sachdeva, learned counsel for the respondents. He has

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relied on the judgement of the Tribunal in Sukhpal Singh Vs. Union of India & Ors. (OA 1360/99), copy placed on record, which has followed the decision of the Tribunal (Chandigarh Bench) in Ram Pal Singh & Ors. Vs. U.T. Chandigarh through Secretary to the Govt. Deptt. of Engineering, Chandigarh Administration and Ors. (OA 365/Ch/99 with connected OAs), decided on 13.8.1998. The respondents have also taken a number of other preliminary objections, including that the applicant had not made any representation to the respondents under Section 20 of the Administrative Tribunals Act, 1985, and the subject matter is covered under the I.D. Act and as such this Tribunal has no jurisdiction to entertain the matter. They have also stated that the applicant has also not impleaded the contractor through whom he was engaged in the Department as necessary party and the applicant is permanently resident in District Ferozepur and, therefore, Chandigarh Bench of the Tribunal has jurisdiction in the matter. In paragraphs 4.8 and 4.9, they have explained in detail the relevant facts, stating that consequent upon the decision taken by the respondents, powers of all Department of Telecommunication officers to engage casual labourers either on daily or monthly wages direct or through contractors as well as authority of Accounts Officers for making payments to them have been withdrawn by O.M. dated 12.11.1999. They have also stated that in view of the instructions and ban imposed by order dated 30.3.1985 and 22.6.1988 for engagement of casual labourers and abolition of system of engaging casual labourers through contractors, the case of the applicant cannot be considered for appointment as driver de hors the recruitment rules framed under the proviso to Article 309

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of the Constitution. Learned counsel for the respondents has also relied on the observations of the Tribunal (Chandigarh Bench) in Ram Pal Singh's case (supra), which has been followed in Sukhpal Singh's case (supra). In the written submissions given by Mrs. Rani Chhabra, learned counsel, she has tried to distinguish these cases relying upon the Full Bench judgement of the Tribunal in Rehmat Ullah Khan & Ors. Vs. Union of India & Ors. (T.161/86 with connected cases), decided on 24.4.1989 (copy placed on record). Learned counsel for the applicant has contended that in the facts of the case, the applicant was a direct employee of the respondents and, therefore, the Tribunal has jurisdiction in the matter to entertain the present O.A. and give the reliefs, as prayed for.

5. After careful consideration of the pleadings and the submissions made by the learned counsel for the parties, it is not possible to agree with the contentions of the learned counsel for the applicant that the reasoning given in the judgement of the Chandigarh Bench of the Tribunal in Ram Pal's case (supra) which has been followed in Sukhpal Singh's case (supra) is not applicable to the facts and circumstances of the present case. In para 1 of the O.A. itself the applicant has stated that he had been disengaged without notice or retrenchment compensation in complete violation of Section 25F of the I.D. Act. The pleadings, therefore, show that that the subject matter is covered under the I.D. Act and, therefore, in the light of the judgement of the Supreme Court in Krishan Prasad Gupta Vs. Controller Printing and Stationery (1996 (32) ATC 211), this Tribunal does not have jurisdiction in the matter. The judgement of the

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Full Bench of the Tribunal in Rehmat Ullah Khan's case (supra) will not also assist the applicant as he is not a casual labourer in the employment of the Department/respondents. The applicant himself has stated in the O.A. that from May, 1997 onwards he has been paid through the contractor and in the circumstances, the contention of the respondents that the applicant did not fulfil the condition for grant of temporary status for the earlier period he was engaged in the Department, cannot be rejected.

6. For the reasons given above, and in the facts and circumstances of the case, following the ratio of the judgement of the Tribunal (Chandigarh Bench) in Ram Pal Singh's case (supra) which is applicable to the present case, the O.A. 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.



(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'