

CENTRAL ADMINISTRATIVE TRIBUNAL
 PRINCIPAL BENCH
 NEW DELHI.
 OA 2427/1999

New Delhi this the 31st day of July, 2000

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

Chaman Lal
 S/O Mulkhi Ram
 R/O Vill. Laha
 P.O. Garyali,
 Distt. Hamirpur,
 Himachal Pradesh

.. Applicant

(By Advocate Mrs. Rani Chhabra)

Versus

1. Union of India,
 through its Secretary,
 Ministry of Communication,
 Department of Telecommunication,
 Sanchay Bhawan, New Delhi.
2. Chief General Manager (NTP),
 Department of Telecommunication,
 Room No. 551, Kidwai Bhawan,
 Janpath, New Delhi.
3. Director (Headquarter),
 Deptt. of Telecommunication,
 Kidwai Bhawan, Janpath,
 New Delhi.
4. Director (NTP)
 Telecom Project,
 Madhav Kunj, Bharari Road,
 Shimla, Himachal Pradesh.
5. Divisional Engineer,
 Telecom Projects,
 Krishna Nagar, Ward No. 1,
 Hamirpur, Himachal Pradesh.

.. Respondents

(By Advocate Mrs. P. K. Gupta)

O R D E R (ORAL)

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

The applicant, ~~who~~ was working as casual
 labourer with the respondents from 1.10.1997 till
 the impugned order of termination was passed on
 14.10.99 terminating his services w.e.f. 14.11.99. He

has filed this application praying for the reliefs as mentioned in Paragraph 8 of the OA.

2. I have heard both the learned counsel and perused the records.

3. The admitted facts of the case are that the applicant was engaged by the respondents as part of the Task Force on 1.10.1997 and his services were terminated by the impugned termination order dated 14.10.1999 after giving him one month notice w.e.f. 14.11.1999 i.e. with retrenchment compensation under the provision of Section 25(F) of the Industrial Dispute Act, 1947. Mrs Rani Chhabra, learned counsel for the applicant has relied on the Scheme called ^{the} "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of the Department of Telecommunications, 1989" (Annexure A-1). She has submitted that in the period of two years of service, since the applicant has completed 240 days of service in each year, he is entitled for grant of Temporary Status in accordance with the provisions of the Scheme. She has also submitted that even if the applicant has been appointed as part of the Task Force which has been wound up on 30.6.1997, as submitted by the learned counsel for the respondents, that cannot come in his way for getting the benefits of the Scheme prepared by the respondents in 1989, if he otherwise fulfils the terms and conditions mentioned therein.

4. The respondents have submitted in their reply that the applicant has been engaged on contract basis w.e.f. 1.10.1997 and has been continued upto 14.10.99(Sic.). However, it is noticed from the impugned termination order that his services have actually been terminated from 14.11.1999, after giving him ~~one~~ month notice. They have submitted that the services of the applicant have been done in view of the ban imposed on 12.10.1989 and they have contended that the notice of termination order dated 14.10.99 is, therefore, legal and valid. Mrs P.K. Gupta, learned counsel, has submitted that the applicant has, however, been continued in service even after the termination order terminating his services w.e.f. 14.11.99 by virtue of the Tribunals ad interim order dated 12.11.99 and even at present he is continuing in service as casual labourer/work charged employee. Her contention is that in the circumstances, the benefit of the Scheme of 1989 for casual labourers was not granted to him, as he was only a ¹⁸ work charged employee. She has also drawn my attention to the letter dated 12.10.99 issued by the respondents calling for the details of number of days of each casual ~~Ma~~door who had been employed on work charged basis under the Task Force.

5. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. Taking into account the facts and circumstances of

18

the case, as the applicant was admittedly employed as casual labourer as part of the Task Force, ~~and that~~ after winding up of the Task Force, the action of the respondents in passing the termination order dated 14.10.99 against the applicant, after due notice is neither arbitrary nor illegal justifying any interference in the matter.

7. The next main issue in this case is for grant of Temporary Status to the applicant in terms of the respondents Scheme dated 1.10.89. In this connection, it is seen from the letter issued by the Director(HQ) dated 12.10.1997 that the respondents themselves are considering approval for grant of Temporary Status to 29 casual labourers of Director TP Shimla, among whom the applicant is one of the casual labourers. Letter dated 14.10.99 in reply to this letter merely reiterates that as the applicant had been reengaged after the winding up of the Task Force, his services has been terminated after due notice. However, nothing has been placed on record by the respondents as to what decision they have taken with regard to the approval for grant of Temporary Status to ^{the} 29 casual labourers, including the applicant, who have been engaged and continued as part of the Task Force, even after the winding up of the Task Force.

8. Prima-facie, there is some merit in the contention of Mrs. Rani Chhabra, learned counsel, ^{Ms} that the applicant had been engaged as part of the Task Force as ^a_{an} casual labourer.

and there is no reason why the benefit given to a casual labourer under the Grant of Temporary Status and Regularisation Scheme should not be extended to him. However, it is noticed that this issue was under the active consideration of the respondents but unfortunately the decision, they have taken in the matter, if any, is not before the Tribunal. This is essentially a policy matter which has to be taken by the respondents. It is also relevant to note that the respondents have stated that after discharge of the applicant as casual labourer they have not appointed any other casual labourer in his place, presumably due to the ban in engagement of such casual labourers.

9. In the result for the reasons given above, the termination order dated 14.10.99 is legal and valid and there is no justification for setting aside the order.

The OA is disposed of with the following directions:-

(i) The respondents shall take the decision, if not already taken, in furtherance to their letter dated 12.10.1997 regarding grant of Temporary Status on the applicant and other similarly situated persons within one month from the date of receipt of a copy of this order with intimation to the applicant. They shall do so by a reasoned and speaking order.

(ii) In case, the respondents have work of the nature the applicant was doing previously with Respondent 5, he shall be given preference to outsiders and juniors. No costs.

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