CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2664/1999, with OA No.1094/2000 & OA No.1042/2000

New Delhi, this 17th day of May, 2001

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri M.P.Singh, Member(A)

Javed Akhtar
F2-52, Old Seemapuri
Shahdara, Delhi .. Applicant in OA 2664/99

versus

Union of India, through

1. Secretary
   Ministry of communication
   Sanchar Bhavan, New Delhi
2. Chief General Manager
   Telecom West, Dehradun
3. General Manager Telecom
   Jaina Tower, Raj Nagar, Ghaziabad
4. General Manager, Telecom
   Sector 19 Telephone Compound, Noida
5. Area Manager Telecom
   Babu Banarasi Dass Trust
   Exhibition Road, Bulandshahr .. Respondents

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Ramesh Chandra Rai
F256, Sector 40, Noida .. Applicant in OA 1094/2000

versus

Union of India, through

1. Secretary
   Ministry of communication
   Sanchar Bhavan, New Delhi
2. Chief General Manager(West)
   Telecom Dept. Dehradun
3. General Manager, Telecom
   Sector 19 Telephone Compound, Noida
4. DGM(East), Noida
5. CO(East), o/o DGM(East)
   Godwari Complex, Sector 37,Noida .. Respondents

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Narendra Singh
Vill. Chhalera
Gali No.1,Sector 44,Noida .. Applicant in OA 1042/2000

versus

Union of India, through

1. Secretary
   Ministry of communication
   Sanchar Bhavan, New Delhi
2. Chief General Manager
   Telecom West, Dehradun
3. General Manager Telecom
   Jaina Tower, Raj Nagar, Ghaziabad

4. General Manager, Telecom
Sector 19 Telephone Exchange, Noida
5. Sub-Divisional Officer Telecom
RLU Telephone Exchange
Sector 39, Noida ... Respondents

Smt. Rani Chhabra, Advocate for applicants in all OAs
Shri K.R.Sachdeva, Advocate for all Respondents

ORDER(oral)

By Shri M.P. Singh

The issues involved and the relief sought for in all the aforesaid three OAs are identical and therefore, with the consent of the parties, we are proceeding to dispose of the OAs through a common order.

2. The case of the applicant in OA 2664/99 is that he was initially engaged as a computer operator by the respondents from 1.9.96 upto 31.8.97 and was paid on ACG-20. He claims that he had worked upto 5.11.98 and was paid through the contractor from 1.9.97 to 5.11.98, after which he had been disengaged. The applicant in OA 1094/2000 claims that he was engaged through the contractor in the department of Telecommunications as Computer Operator on 15.6.99 and still continuing, while the third applicant (OA 1042/2000) claims that he was also engaged as Computer Operator in August, 1998 by the respondents and he had been disengaged from 1.11.99. All the applicants claim that the work they have performed is of perennial nature and therefore they seek directions to the respondents to reinstate them and regularise their services with consequential benefits.

3. Respondents have opposed the OAs. It is the case of the respondents that the applicants were never engaged by the department and there is no post of computer operator/data entry operator in the department against

which the applicants could claim regularisation. They have submitted that the data feeding job, which is of a casual nature, was awarded to the private contractors and the applicants might have been engaged by the contractors. In so far as the first applicant is concerned, respondents would submit that though he has claimed that he had continuously been working since 1.9.96, he has not clearly mentioned who employed him, who paid him and for what kind of work he was employed and that he has not even produced his letter of appointment in the respondent-department.

4. Heard the learned counsel for the parties and perused the records.

5. During the course of the arguments, learned counsel for the applicants has placed reliance on the judgement of the apex court in the case of Secretary, Haryana State Electricity Board Vs. Suresh & Ors. JT 1999(2) SC 435 to contend that the work performed by the applicants is perennial in nature and therefore applying the ratio of this judgement, the applicants should have been regularised. While opposing this contention, the learned counsel for the respondents has drawn our attention to the decision of the apex court in the case of State of UP Vs. Ajay Singh (1997) 4 SCC 88 wherein it has been laid down as under:

> "There must exist a post and either administration instructions or statutory rules must be in operation to appoint a person to the post. Daily wage appointment will obviously be in relation to contingent establishment in which there cannot exist any post and it continues so long as the work exists. Under these circumstances, the Division Bench of the High Court was clearly in error in directing the appellant to regularise the services of the

respondent who was working as Nursing orderly on daily wages to the post as and when the vacancy arises and to continue him until then"

He has also drawn our attention to yet another decision of the apex court in case No.1044/88 decided on 7.12.98 (Yasoda Rani Vs. UOI) wherein it was held that computer professional whose services are hired for specific jobs and engaged for a long period on daily wages basis cannot claim the benefit of either temporary status or regularisation because she is not a casual labour.

5. The learned counsel for the respondents also drew our attention to the decision of this Tribunal dated 20.10.2000 by which CP 217/2000, with MA 1097/2000 and OA 593/2000 filed by daily wage Data Entry Operators working under the same respondents and seeking regularisation was dismissed.

6. Admittedly, the applicants have been engaged as Computer Operator which is a Group 'C' post. The Schemes framed by the Government in 1989 and 1993 are with regard to regularisation of casual labour in Group 'D' post. There is no Scheme which provides for regularisation in Group 'C' post. The case of the applicants for regularisation in Group 'C' post is, therefore, not covered under the aforesaid Schemes. For this reason and also following the ratio of the aforesaid judgements, we do not find any merit in the present OAs and, therefore, they are dismissed accordingly. No costs.

(M.P. Singh)
Member(A)

(Kuldip Singh)
Member(J)

/gtv/