

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.NO.2666/99

New Delhi, this the 67th day of September, 2000

HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

1. Labha Singh, S/O Achhra Singh, R/O H.II-203 Madangir, New Delhi.
2. Harminder Singh, S/O Karnail Singh, R/O H.II, 203, Madangir, New Delhi.
3. Kulwant Singh, S/O Dhani Singh, R/O H.II, 203, Madangir, New Delhi.
4. Ajit Singh, S/O Bhagat Singh, R/O H.II, 203, Madangir, New Delhi.
5. Avtar Singh, S/O Labh Singh, R/O H.II, 203, Madangir, New Delhi.

.....Applicants.

(By Advocate: None)

Versus

1. Union of India, through its Secretary, Ministry of Communication, Deptt. of Telecommunication, Sanchar Bhawan, New Delhi.
2. Chief General Manager (Telecom), Deptt. of Telecommunications, Punjab Division, Chandigarh.
3. General Manager (Telecom), Deptt. of Telecommunications, Neela Bhawan, Patiala.
4. Sub-Divisional Officer (Telegraph), Deptt. of Telecommunications, Mandi Govindgarh, Patiala.

.....Respondents.

(By Advocate: Sh. K.R. Sachdeva)

O R D E R

The applicants were engaged by the respondents as work charged labour, have been working as such for a long time from 1978-79 with a break in October 1988 and re-engagement from April, 92. They are performing the duties of lineman involving laying of cable, erecting poles, digging pits etc. Their grievance is that

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notwithstanding the long period of time they have been working, the respondents have disengaged them illegally and by means of oral orders in May 1999. They want the respondents to be directed to re-engage them ensuring continuity in service and conferment of temporary status in terms of the Scheme framed by the Deptt. of Telecommunications. Hence, this OA.

2. The respondents have denied their claim for conferment of temporary status in accordance with the Deptt. of Telecommunication's Scheme and have raised a few other issues also.

3. None has appeared on behalf of the applicant even on the second call. I have heard the learned counsel for the respondents and have perused the material on record.

4. To begin with, the applicants themselves have admitted that they were being paid through a Contractor. However, they have also provided some details so as to prove that the temporary status could be conferred on them. At one stage, the applicants have also claimed benefit under the Industrial Disputes Act, 1947 alleging that they were disengaged without notice and without retrenchment compensation payable according to Section 25 F of that Act. The applicants have also contended that they had filed a representation against their disengagement on 4.6.99 but the respondents have denied having received any such representation. I find that, apart from raising contentions as above, the applicants

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have placed reliance mainly on certain rulings of the Apex Court in support of their claim.

5. The respondents have challenged the maintainability of the OA on the ground of no representation in terms of Section 20 of the Administrative Tribunals Act, 1985. This is arguable in that while the applicants have contended that a representation was duly sent to the respondents, the latter had denied having received the same. According to the respondents, the OA is not maintainable on the ground of limitation also. The applicants were admittedly disengaged first in 1988 but never cared to approach this Tribunal for 11 years. This contention is taken care of by the applicants by saying that they were reengaged in April, 92 and had continued since then but for the oral order of disengagement given only in May, 99. Looked at from this angle, the requirement of limitation would seem to have been met and the OA can be proceeded with. Since the applicant have been working through Contractors, non-impleadment of the concerned Contractors has also been cited as yet another reason for non-maintainability of the OA due to non-joinder of necessary party. More importantly, the respondents, while referring to the issue concerning the grant of retrenchment compensation under the I.D. Act, 1947 in the manner raised by the applicants, have contended that this Tribunal has no jurisdiction to entertain matters covered under the said Act. In support of their argument, they have cited the judgement of the Hon'ble Supreme Court in K.P.Gupta Vs. Controller Printing & Stationary (1996) 32 ATC 211 and

the order of the Jabalpur Bench of this Tribunal in Bheesam & Others vs. Union of India & Others, 1998 (3) ATJ 521. They have also drawn support from the order of the Chandigarh Bench of this Tribunal in OA-365/CH/99 in Ram Pal Singh & Ors. vs. U.T. Chandigarh & Others. To prove their point that the applicants have never worked in the Telecom Department and have always been working on the other hand through private Contractors, the respondents have averred that there is no evidence at all that the applicants ever worked with them or were ever disengaged or disengaged by them in the manner suggested by the applicants.

6. I have perused the Casual Labourers (Grant of temporary status & regularisation) Scheme, 1989 issued by the Deptt. of Telecom and made effective from 1.10.89. Quite clearly the said Scheme would apply only to those Casual Labourers who were 'currently' employed with the Deptt. at the relevant time. In a way, the promulgation of the Scheme in question was a one time measure and was supposed to apply only to those casual labourers who were employed with the respondents at the time the Scheme became effective. The respondents have explained in some detail the circumstances in which they have had to restrict and ultimately impose a total ban on the engagement of casual labourers for any type of work. The story begins in March, 85 when a partial ban was first imposed. The ban so imposed was made more effective a little later in June, 1988 and has been perfected in a total sense in February, 99. The corresponding circular instructions issued by the Deptt. have been placed on

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record. The ultimate position is that the powers available to all the levels of the DOT officers to engage casual labourers on daily or on monthly wage basis, directly or through contractors, have been withdrawn and the authority of the Accounts Officers for making payments to casual labourers too has been withdrawn. In this background, they have contended that the judgement of the Hon'ble Supreme Court in Secretary, Haryana State Electricity Board Vs. Suresh & Ors., JT 1992 (2) 3C 435, quoted by the applicants, will not find any application in the facts and circumstances surrounding the engagement of casual labourers in the DOT. Following the same line of argument, more or less, and referring to the possible application of the Industrial Disputes Act, 1947 to the case of the applicants, the respondents have also contended that in accordance with the order of this Tribunal in OA-365/CH/99 (with connected OAs) vide order dated 13.8.99 (place on record), the claim of the applicants cannot possibly be entertained.

7. In the light of the above discussion and for the reasons advanced by the respondents, I find that the OA cannot succeed, neither on merit nor on the point of limitation. The OA is accordingly dismissed. There shall be no order as to costs.

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(S.A.T.RIZVI)
MEMBER (A)

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