

(23)

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.544 of 1999

New Delhi, this the 30th day of April, 2001

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Dinesh Singh
S/o Bharat Singh Yadav
R/o K-208 Sarojini Nagar,
New Delhi-110 023.

..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,
Telecom, West,
Department of Telecommunications,
Dehradun.
3. Telecom District Manager,
Department of Telecommunications,
Civil Lines,
Mathura.
4. Sub Divisional Engineer,
E-10-B Telephone Exchange/SDE (Operation)
O/o Telecom District Manager,
Department of Telecommunications,
Civil Lines, Mathura. ..Respondents

By Advocate Shri R.P. Aggarwal.

O R D E R (ORAL)

By Hon'ble Mr.Kuldip Singh, Member(Judl)

The applicant in this case has sought the following reliefs:-

(A) To quash the oral order of dis-engagement dated 5.1.99 being ab initio void.

(B) To direct the respondents to immediately re-instate the applicant with continuance

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in service and full back wages.

(C) To direct the respondents to regularise the services of the applicant as driver.

2. The facts as alleged by the applicant are that he was engaged on 15.6.91 as a casual driver though he was discharging the duties of a driver, which is a Group "C" post since the day of his engagement, but initially he was paid as Group "D" casual labourer. He represented against the said illegal action and w.e.f. 1.6.92 he was designated and being paid as casual driver.

3. The applicant has further alleged that as per certain judgments passed by the Hon'ble Supreme Court, a Scheme had been framed by the Department of Posts and Telegraphs to confer temporary status on casual labourers and then to regularise them in accordance with the Scheme. Besides that it is also pleaded that the posts of the Driver are governed by the Post and Telegraph Department (Motor, Jeep Lorry and Staff car driver) Recruitment Rules, 1983 with regard to recruitment of drivers etc. and according to the said rules also 50% of the drivers are to be appointed by transfer and 50% by direct recruitment. The applicant who fits in both the modes could have been given an appointment as per the Recruitment

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Rules to the post of Driver since he had put in more than 7.1/2 yeas of service, his services could not had been dispensed with.

4. In reply to this, the counsel for the respondents submitted that the applicant was engaged as a casual driver through contractor and he had been working for quite sometime as casual driver through contractor but somewhere on 11.1.1999 the vehicle which was being driven by the applicant was diverted to Dehradun and the contractor who used to supply drivers including the applicant on contract basis at that time was not ready to supply the drivers at Dehradun so it is submitted that the department could not continue with the engagement of the applicant and his services had been dispensed with as the contract came to an end.

5. It is also submitted that the applicant had made an application for recruitment as Motor Driver in Agra Telecom District on 20.1.1997 vide Annexure R-2 but the same was rejected by the department on the ground that he had not worked with the department as casual labour and no certificate was attached for working prior to 22.6.88 with the application and as such it is submitted that the OA is not maintainable and the same be dismissed.

6. I have heard the learned counsel for the parties and have gone through the records of the case.



7. From a bare reading of the facts it is quite manifest that the applicant had been working with the department only as a casual driver either on contract basis or otherwise supplied by the contractor under the department, which according to the applicant himself is a Group 'C' post and not a Group 'D' post. As per the Scheme vide which temporary status is to be conferred the applicant in his OA says that the scheme applies to Group 'D' staff and not to Group 'C'. The counsel for the applicant has also referred to a judgment entitled as Lalji Ram Vs. U.O.I. & Another where the applicant who was employed as a daily rated casual mazdoor had sought regularisation and temporary status under the grant of temporary status and regularisation scheme. The benefit of that scheme was not extended to the applicant on the ground that he was discharging the duties of Lorry Driver. The plea taken by the department was negated by the department and directions were given to the department to regularise the applicant in a Group 'D' post in accordance with the Scheme. But I find that on facts the case of Lalji Ram (Supra) do not apply to the facts of the present case. Here in the present OA the applicant has stated that he was engaged as a casual driver in a Group 'C' post and not as a Mazdoor and in the case cited by the counsel for the applicant it was not disputed that the applicant in that case was a daily rated casual mazdoor though he was asked to discharge the duties of Lorry Driver. There is a lot of difference regarding the engagement of the applicant in this case and the case cited by the applicant.

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8.. Hence, I find that the ratio as laid down by the case cited by the applicant does not apply to the facts of the present case. Even as per the reliefs claimed by the applicant he is seeking regularisation as a driver, which is a Group 'C' post and which can be done only in accordance with the rules and as such no directions can be issued by the court directing the respondents to regularise him as driver because he was working on that post on contract basis. However, if an application is made by the applicant for appointment as driver and if there is any vacancy, he may be considered in accordance with the rules.

9. OA is disposed of with the above directions. No costs.


(Kuldip Singh)
Member (J)

Rakesh