

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1231 of 1998

New Delhi, this the 21st day of May, 1999

HON'BLE SHRI N. SAHU, MEMBER(A)

Sultan Singh Kushwaha
S/o Shri Ram Chandra Kushwaha,
r/o Village Pitha,
P.O. Bhikapur,
Distt. Ettawaha (U.P.)

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-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 (West)
Department of Telecom
Dehradun.
3. General Manager (Telecom)
Department of Telecommunications,
Moradabad.
4. Divisional Engineer,
Telecom Project
D-13/15, Dev Vihar Colony
Near M.D.A. Office,
Moradabad-244001.
5. Sub Divisional Engineer (M.M.)
Telecom Project, Moradabad-244 001.

-RESPONDENTS

(By Advocate: Shri Rajeev Bansal)

O R D E R (ORAL)

By Hon'ble Shri N. Sahu, Member (A)

Prayer in this O.A. is to direct the respondents to confer temporary status upon the applicant in accordance with the provisions of the Scheme promulgated on 1.10.89. The next prayer is to condone the gap between September, 91 and October, 94 for the purpose of regularisation.

Prayer in this

2. The respondents in their counter submit that the applicant was not in service on 25.6.93 on which date, the Department formulated the scheme known as "Casual Labourers Grant of Temporary Status and Regularisation Scheme of the Department of Telecommunications, 1989." The reason for not granting temporary status has been recorded at page 2 of the counter. Quoting from the orders of the department, it is stated as under:-

"Casual labourer if any, engaged after 30.3.85 for any work other than the ones mentioned above and also those who are not continuing in the project/Electrification Circles for such works and those who are absent for the last more than 365 days are not covered by this Order and will not be given temporary status."

3. In reply, learned counsel for the applicant submits that the applicant was in employment since March, 1987. He continuously worked with the respondents upto August, 91. He completed 240 days of continuous work in each year. In this regard, a statement was filed at annexure A-1 at page 19 of the paper book which shows the period of work as under:-

<u>Year</u>	<u>Working days</u>
1986-87	31 days
1987-88	365 days
1988-89	333 days
1989-90	363 days
1990-91	152 days
1991-92	
1992-93	
1993-94	
1994-95	155 days
1995-96	366 days
1996-97	364 days
1997-98	

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4. Learned counsel for the applicant has also filed order of a Division Bench which deals with this problem regarding the contention of the respondents that casual labourers who are first engaged after 31.3.85 will not be entitled to the benefit of the scheme for grant of temporary status. Relying on the decision of the Supreme Court in the case of Brij Kishore vs. Union of India (W.P.No.1041/88), the Division Bench found no substance in the objection raised by the respondents. Casual labourers who commenced their services after the date of commencement of the scheme would also be entitled to the grant of temporary status on completion of a period of 240 days. Allowing the writ petition, the Hon'ble Supreme Court has simply given emphasis to the working of the casual labourers for more than one year and their engagement for work for a period of 240 days in a calendar year. If these two conditions are satisfied, an artificial cut-off date would not disentitle them to the benefits of the scheme. Supreme Court relied on the following decisions : Daily Wages Casual Labourers employed in the P&T Department Vs. Union of India & ors. (1988 (1) SCC 122), Ram Gopal vs. UOI (Writ Petition (C) No. 1280/89 decided on April 17, 1990) and Jagrit Mazdoor Union (Regd) & ors. vs. Mahanagar Telephone Nigam Ltd. & Anr. (1990 Suppl. SCC 113).

5. The facts of this case are that the applicant had worked for more than 240 days in the years 1987-88, 1988-89, 1989-90 as also in the years 1995-96 and 1996-97. There is no justification for depriving him the

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benefits of the scheme relating to conferment of temporary status. I, therefore, direct the respondents as under:-

"Applicant shall be conferred temporary status counting the periods of work rendered by him in the tables set out above. The said order of temporary status shall commence from 1987-88 onwards, the year in which for the first time the applicant has completed more than 240 days of service. Thereafter, the period of work for the years 1987-88 onwards except the periods from 1991-92, 1992-93 and 1993-94 shall be counted for the purpose of regularisation and accordingly the respondents shall consider and pass an order, if a post is available, for regularising the applicant. This exercise should be completed within a period of four weeks from the date of receipt of a copy of this order." No costs.

Anuradha Sahu
(N. SAHU)
MEMBER(A)

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