

Central Administrative Tribunal
Principal Bench

O.A.No.1232/98

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 13th day of August, 1998

(5)

Shri Vishwas
s/o Shri Gurucharan
r/o Village Jhajhanpur
P.O. Harthala Sanakpur
Dist. Moradabad. ... Applicant

(By Mrs. Rani Chhabra, Advocate)

Vs.

1. Union of India through
its Secretary
Ministry of Communication
Department of Telecommunications
Sanchar Bhawan
New Delhi.
2. Chief General Manager (West)
Department of Telecom
Dehradun.
3. General Manager, Telecom
Department of Telecommunications
Saharanpur.
4. Director Telecom Project
Building No:23/24,
Dev Vihar Colony
Moradabad.
5. Divisional Engineer
Telecom Project
Building No:23/24,
Dev Vihar Colony
Moradabad. ... Respondents

(None for the respondents)

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O R D E R

The applicant claims to have been working with the respondents since 1991 as a part time casual Mazdoor in the capacity of a Sweeper. He claims a preferential right to appoint him as a full time casual mazdoor as the respondents are engaging freshers and outsiders overlooking his seniority. I have heard the learned counsel for the applicant on admission. The learned counsel has argued that as a part time casual labour the

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applicant cannot claim the benefit of the scheme for grant of temporary status and regularisation which is applicable in respect of full time casual labourers only. Therefore for a part time workers an appointment as a full time worker would be a progression towards achieving regularisation. Consequently, part time workers have a preferential right over total strangers in obtaining a full time casual worker's job in the same way, that a full time casual worker would have a prior claim for re-engagement over an outsider and those with lesser length of service.

2. I have considered the matter carefully. The casual worker as such, till he attains temporary status has no right other than that he would not be replaced by another casual worker. This principle has been adopted by the Tribunal in various cases to give an higher claim for re-engagement to casual workers over those casual workers who may have lesser length of service or new comers. In the same way, a part time employee of long standing may have a superior claim for re-engagement over another part time worker with lesser length of service. The scheme of grant of temporary status and regularisation has no provision for part time workers and therefore these two categories cannot be brought within the ambit of same service law.

3. In the case of the applicant there is a provision in the Indian Posts and Telegraphs (Group 'D' posts) Recruitment Rules, 1970 that casual labourers both full and part time of the concerned division or unit are equally eligible for consideration for absorption in Group 'D' posts. The learned counsel for the applicant's

contends that this would take its own time but in the meanwhile the applicant has a right to better his prospects by attaining full day's wages. That is indeed so and there is no bar on the applicant to seek full time casual labour job. He will however be considered with freshers since he will have no prior claim over a full time casual labourer even with single day's engagement.

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4. As I find no *prima facie* case for the applicant, the OA is accordingly dismissed at the admission stage itself. No costs.

Rao
(R.K.Ahooja)
Member(A)

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