

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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O.A. NO. 1744 of 19 98

Date of Decision 28.6.1999

Shri Ashok Kumar Gupta Applicant(s)

Shri OP. Khokha Advocate for the Applicant(s)

Versus

UOI & Ors. Respondent(s)

Sh. Rajeev Bansal Advocate for the Respondent(s)

C O R A M: (Single/Division)

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

Hon'ble Shri _____

1. Whether Reporters of local papers may be allowed to see the Judgement?

Yes/No

2. To be referred to the Reporter or not?

Yes/No

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

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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OA No. 1744/98

New Delhi, this the 29th day of June, 1999

HON'BLE SHRI R.K. AHOOJA, MEMBER (A)

In the matter of:

Shri Ashok Kumar Gupta,
son of Shri Bharat Prasad,
resident of Quarter No. A-21,
Moller Band Extn.,
Badar Pur,
New Delhi-110044.

working as Daily Rated Mazdoor
in the office of the Divisional Engr. (Telecom),
R.A.B.M.N. Project
Department of Telecommunications,
Noida-201 301 Ghaziabad (U.P) Applicant
(By Advocate: Sh. O.P.Khokha)

Vs.

1. Union of India through
The Secretary,
Ministry of Communication,
Department of Telecommunications,
Sanchar Bhavan, New Delhi-110001.
2. The Chief General Manager,
Department of Telecommunications,
Data Net Works,
Noida-201 301, Distt. Ghaziabad (U.P)
3. The Divisional Engineer (Telecom),
Department of Telecommunications,
R.A.B.M.N. Project,
Nodia-201 301, Ghaziabad (U.P) Respondents
(By Advocate: Sh. Rajeev Bansal)

ORDER

List
The applicant claims that he has been working as daily rated Mazdoor in the office of the Divisional Engineer (Telecom), R.A.B.M.N. Project at Noida since April 1989. In each of the succeeding years he has completed engagement of more than 240 days in a period of 12 months. His plea is that in terms of Department of Telecommunication Scheme known as "Casual Labourers (Grant of Temporary Status and Regulation) Scheme, 1989", he is entitled to grant of temporary status and regularisation.

Dr

He submits that the respondents are ignoring his claim and have granted temporary status to three of his juniors, namely, Sh. Digamber Singh, Sh. Jitender Kumar and Smt. Jagroshini. He has now come before the Tribunal seeking a direction to the respondents to consider ~~of~~ his case for grant of temporary status and regularisation in Group 'D' cadre from the due date in accordance with the aforementioned Scheme.

2. The respondents in their reply have stated that the applicant was initially engaged for R.A.B.M.N. Project which was in existence from 18.12.87 to 16.6.91. Subsequently, he was engaged for Inet Phase-I Project which was in existence from 16.6.91 to 26.5.95. Thereafter the Inet Phase-II Project was started which is still continuing. The respondents state that the applicant cannot be granted temporary status for three reasons. Firstly, they state that the Scheme is applicable only to those who had been engaged during the period 31.3.85 to 22.6.88 and who were still in employment on 22.6.88. They say that this is not the case in respect of the applicant. Secondly, in terms of Supreme Court's decision in State of Himachal Pradesh vs. Suresh Kumar Verma and another reported in 1996 (7) SCC 562, the labourers employed on projects, as in the case of the applicant, are not entitled to the benefit of the Scheme. Thirdly, they submit that since the R.A.B.M.N. Project is different from the Data Network Circle where the applicant is presently working, the applicant cannot claim seniority over those who were earlier working in R.A.B.M.N. Project.

Dr

2. I have heard the counsel. The decision of the Supreme Court in State of Himachal Pradesh Vs. Suresh Kumar Verma related to the case of Assistant Development Officers who were admittedly appointed on daily rated basis d' hors the rules. The case of these Assistant Development Officers was not covered by any Scheme for grant of temporary status and regularisation which in the case of the respondent department is meant only for the casual workers working on jobs similar to those of Group 'D' regular employees. This Scheme was also prepared in pursuance of the judgment given by the Supreme Court in the case of Group 'D' casual labourers employees 1988 (1) SCC 128. Thus the case of the casual workers working on projects under Telecom Department is of a entirely different nature and the ratio of State of Himachal Pradesh vs. suresh Kumar Verma and another (supra) does not apply to them.

3. In ~~this~~ regard to the second point raised by the respondents it has already been decided by this Tribunal in CP No.345/94 in OA-346/94 Ram Kishan and others vs. Union of India and others that the Scheme is a continuing one and all those persons who are engaged even after the Scheme came into existence are also eligible for its benefits.

4. Since it has already been concluded that daily rated casual labourers such as the applicant working on Telecom Department are entitled to the benefits of the Scheme, clearly the applicant would have a claim over

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those who had lesser service than him and who were engaged later than him. Therefore, the third plea taken by the respondents is also not tenable.

5. In the result the OA is allowed. the respondents are directed to consider the case of the applicant for grant of temporary status and regularisation on the basis of his seniority with a period of 3 months from the date of receipt of copy of the same. No costs.

R.K. Arooja
(R.K. AROOJA)
Member (A)

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