

Central Administrative Tribunal
Principal Bench: New Delhi

OA 1336/95

New Delhi this the 11th day of December 1996.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

1. Gandharv Singh
Son of Shri Khushi Lal
C/o Hari Prakash R C-506
Sector 19, Noida Dist.
Ghaziabad (UP)

2. Khushi Lal
Son of Ishwari Prasad
C/o Hari Prakash
R/o C-506 Sector 19
Noida Dist. Ghaziabad.

...Applicants.

(By Advocate: Mrs Rani Chhabra)

Versus

1. Union of India through
Secretary
Ministry of Communication
Department of Telecommunication
Sanchar Bhawan, New Delhi.

2. General Manager
Telecom
Jaina Towers
Ghaziabad (UP)

3. Divisional Engineer (Phones)
E-10 B, Sector 19
Noida, Ghaziabad.

4. Area Manager (Telephones)
Sector 19 Noida.

5. Assistant Engineer (Phones)
Fault Repair Service & Transmission
Sector 19, Noida.

...Respondents.

(By Advocate: Shri B.K.Punj)

O R D E R (oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

Applicants two in number are aggrieved by the fact that though they have been working as casual labourers from December 1991/October 1991 onwards and have completed more than 240 days in each year, respondents are not granting the benefit of temporary status. They are further aggrieved by the fact that though they

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have been engaged, they are not shown on muster roll but shown as ACG 17 with a view to deny them the benefit of the scheme for grant of temporary status and regularisation. Their further grievance is that during the past three months, the respondents have unfairly reduced the working hours from 8 to 6 hours. They have relied upon a judgement of the Tribunal in Narendra Singh Vs. UOI OA 496/94 in which persons identically situated like them have been declared to be eligible for grant of temporary status. The applicants have, therefore filed this application praying that the respondents may be directed to grant them temporary status w.e.f. the relevant date when they completed 240 days of casual service in a year and to restore their working hours from 6 to 8 hours.

2. Respondents have filed a reply in which they contend that the applicants have been engaged as part-time workers occasionally; that certificates produced by the applicant are not supported by work order number; that the statement in the application that their working hours have been reduced from 8 to 6 hours is a false statement; that they were also sometimes engaged as part time helpers; that the applicants have not been engaged as full time workers for a single day and, therefore, conferment of temporary status on them does not arise and that the applicants are not entitled to the relief prayed for. During the pendency of the application, the applicants filed an MA 2440/95 wherein they have stated that immediately on receipt of notice issued from the Tribunal in the OA, the respondents have arbitrarily and unjustifiably terminated their employment w.e.f. 21.8.95 and prayed that the oral termination of their services may be stayed during the pendency of the application as it is erraneous and opposed to equality guaranteed under Articles 14 & 16 of the Constitution.



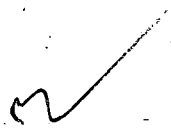
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3. I have heard learned counsel on either side and have perused the material on record. The claim of the applicants for grant of temporary status is opposed on the ground that the applicants have not been engaged as full time casual labourers as they have been engaged only as part-time casual labourers. But the certificate issued by the Sub Divisional Officer (Annexure A-1 collectively) shows that the applicant-1 has been rendering casual service from December 1991 onwards upto December 1992; that this period exceeds 240 days and that the applicant 2 has been rendering casual service from October 1991 onwards upto December 1992 and that even as in May 1992, the applicant 2 had completed 244 days of casual service. The certificate clearly shows that both the applicants have been engaged as casual labourers on approval from higher authorities and it does not indicate that they were engaged as part-time casual labourers. If as a matter of fact the applicants have been engaged only as part-time casual labourers, the certificate would show that they were engaged as part-time casual labourers on hourly basis. That being so, it is idle to contend that the applicants have been engaged only as part-time casual labourers. The allegation that the applicants were shifted from muster roll to ACG arbitrarily is also not denied in the reply statement. Regarding the allegation that for the past three months, their working hours have been reduced from 8 to 6 hours though the respondents state that the statement is false, there is no specific denial and they have only stated that at times they were also engaged as part-time casual labourers. This statement in the reply belies the earlier reply statement that the applicants have not been ^{even} for a single day engaged as full time casual labourers. On a careful scrutiny of the

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pleadings as also the certificates annexed with the application by the applicants, I have no hesitation to hold that the contention raised by the respondents lacks bonafides and is wholly untrue. This stand has been taken by the respondents, obviously, as a device to deny to casual labourers the benefits of the benevolent scheme for grant of temporary status and regularisation evolved by the Government after thorough deliberation taking into account the plight of persons who are at the lowest rung of the society. This attitude is highly reprehensible. The action on the part of the respondents to terminate the services of the applicants on receipt of notice from the Tribunal shows this attitude towards the casual labourers. Resorting to legal forum cannot be considered as an act of indiscipline or arrogance. A person who is working as a daily rated employee will not normally venture on litigation which costs him hard-earned money. I find from the materials placed before me that the grievances of the applicants are genuine and that they have been driven to litigation on account of the unsympathetic and arbitrary attitude of the respondents.

4. In the conpectus of the facts and circumstances, I allow this application, rejecting the contentions raised by them and direct the respondents to continue to engage the applicants for casual work in preference to persons who have rendered lesser length of service than them and to reinstate them in service forthwith, if the respondents have engaged fresh casual labourers or persons with lesser service than them and if they continue to engage such persons. Respondents are also directed to confer on the applicants temporary status with effect from the date on which each of them completed 240 days of casual service. The applicants shall be continued to be employed so long as work is available. If



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retrenchment of the applicants becomes necessary, it shall be done only in accordance with the provisions of the scheme adopting the principle 'last come first go'. The above orders shall be complied with and an order conferring on them temporary status shall be issued by the respondents within a period of two months from the date of receipt of this order.

MA also stands disposed of.



[A.V. Haridasan]
Vice Chairman (J)

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