

Central Administrative Tribunal
Principal Bench: New Delhi

OA 1719/95

New Delhi this the 20th day of February 1997.

Hon'ble Mr N. Sahu, Member (A)

Krishan Raghav
S/o Shri Balbir Singh
C/o Shri B.D.Sharma
A-1 Sector 5
Noida, Dist. Ghaziabad (U.P.)

...Applicant.

(By advocate: Mrs Rani Chhabra)

Versus

Union of India through

1. Secretary
Ministry of Communication
Department of Telecommunication
Sanchar Bhawan
New Delhi.
2. General Manager Telecom
Jaina Towers
Ghaziabad (U.P.)
3. Divisional Engineer (Phones)
E-10 B Sector 19
Noida., Dist. Ghaziabad.
4. Area Manager Telephones
Sector 19
Noida, Dist. Ghaziabad
5. Asst. Engineer (Phones)
Fault Repair Service & Transmission
Sector 19
Noida, Dist. Ghaziabad.

...Respondents.

(By advocate: Shri M.M.Sudan)

O R D E R

Hon'ble Mr N. Sahu, Member (A)

In this application, the applicant is aggrieved by ^{alleged} ~~an~~ illegal termination and seeks a direction for conferment of temporary status along with other benefits. Admittedly, the applicant worked for 533 days w.e.f. August 1993 to June 1995 working at the rate of 6 hours per day. The grant of temporary status is applicable to casual labourers from 1.10.89 but the respondents contest the claim of the applicant on the ground that he worked for more than 240 days in a

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year but only as a part-time casual labourer in the department. They next state that the scheme is applicable to those casual labourers who were engaged and continuously working on 1.10.89. Since the applicant was engaged in August 1993, the said scheme is not applicable to the applicant.

2. At the time of hearing in the Bar, learned counsel for the applicant agreed that the services of the applicant were on part-time basis and instead of employing him for full 8 hours per day, he was engaged only for 6 hours per day. The learned counsel further submits that the dispute is no longer res-integra. In an exactly similar case in OA 797/94 Biswas Vs. UOI, the point in dispute has already been decided. That was also a case of a part-time casual worker and yet having satisfied the stipulated conditions, this Tribunal directed consideration of temporary status in accordance with the Scheme.

3. Since the learned counsel for the respondents did not pursue his arguments as the case was stated to be covered, let us elaborate the case of OA 797/94. In OA 797/94 wherein the respondents were the same Telecommunication Department, the applicant's claim for conferment of temporary status and regularisation was contested by the respondents on the ground that the applicant had been working only as a Sweeper for $\frac{1}{2}$ hour per day on contract basis and not as a casual labourer. The Division Bench relied on the full Bench decision in Smt. Sakubai Vs. Secretary, Ministry of Communication 1993 (2) ATJ P. 197 which lays down that no distinction exists between part-time casual labourer and full-time casual labourer. In view of the above decision, I have no doubt in my mind that the attempt to defeat the applicant's claim for temporary status within the frame work of the scheme on the ground of part-time employment cannot be supported.

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4. With regard to the other ground, I do not see much force. Conferment of temporary status is permissible only to those casual labourers "currently employed" ^{and not necessarily} on the date of the introduction of the Scheme i.e. 1.10.89. The scheme would come into force w.e.f. 1.10.89 onwards and the scheme is applicable to the casual labourers employed by the Department of Telecommunication. The scheme envisages absorption of all eligible casual labourers to whom it is applicable. In CP 345/94 in OA 346/94, this Bench ruled that there is no restriction that only those casual labourers who were in service as on 1.10.89 should be given consideration. The scheme had been envisaged to be effective from 1.10.89 onwards. The word "onwards" indicates that the scheme is not a one time scheme. The words "currently employed" also connote employment at the time of consideration. Since engagement of fresh casual labourers had been stopped, I do not see any valid justification for restricting consideration to those casual labourers only who were employed as on 1.10.89.

5. As the issues raised in this case are fully covered, respondents' counsel did not seriously press further. I, therefore, direct that the applicant be engaged "on a daily rate of pay on a need basis" and considered for temporary status alongwith all other benefits in accordance with the Scheme within 6 weeks from the date of receipt of a copy of this order. The OA is disposed of as above.

N. Sahu
[N. Sahu] 20/2/97.
Member (A)

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