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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.2266/95.

New Delhi this the 2nd day of April 1996.

Hon'ble Mr A.V. Haridasan, Vice Chairman (J)
Hon'ble Mr R.K. Ahooja, Member (A)

Tejpal
S/o Sh. Nankha Lal
R/o 285 Majpur
Shahdara
Delhi.

...Applicant

(By Advocate: Mrs Rani Chhabra)

Versus

1. Union of India through its
Secretary
Ministry of Communication
Sanchar Bhavan
New Delhi.
2. The Chief General Manager
Department of Telecom
UP Circle
Lucknow.
3. The TDM Head Office
Haldwani
Dist. Nainital
UP.
4. Sub Divisional Engineer
Telecom Centre
Rudrapur., Dist. Nainital
UP.
5. Assistant Engineer
Greater Exchange
Rudrapur Nainital

... Respondents.

(By Advocate: Sh: M.M. Sudan)

O R D E R (Oral)

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

The applicant who claims to have been last engaged as a Casual Labour on 22.3. 86, disengaged in March 1988 and reengaged pursuant to the order in OA 2172/88 on 2.3.95 has filed this application alleging that the respondents have illegally disengaged him again on 1.10.95 and are not granting him the benefit of temporary status in accordance with the scheme. He prays that the termination of his service may be set aside and the respondents be

directed to grant him temporary status and all consequential benefit as he has completed 240 days in a year.

2. The respondents in their reply do not admit that the applicant performed work as casual labourer for the period as mentioned in the application but they admit that the applicant has performed casual service. Their case is that their record relating to the services of the applicant maintained in the office is missing and the applicant has to establish his case by producing records relating to his engagement. As regards the claim of the applicant that he has been disengaged, the respondents contend that this allegation is not true and the applicant is still continuing. The respondents contend that as regards the claim of the applicant for grant of temporary status, in accordance with the directions contained in the letter dated 17.12.93 of the DOT-ND No.269-4/93-STN-II, only casual labourers engaged between 31.3.85 and 22.6.88 were to be granted temporary status, provided they were not absent from duty for more than 365 days counting from the date of issue of the order dated 7.12.93 and, therefore, the applicant who has been absent for more than 6 years from 4/88 is not entitled to the benefit of temporary status under the scheme.

3. We have perused the pleadings in this case and have heard learned counsel on either side. The counsel of the applicant also agrees that the applicant is continuing in service though an allegation has been made in the application that he remained disengaged from 1.10.95. Now that the applicant is continuing in service, the scope of controversy has been narrowed down to a considerable extent. What remains to be considered now is whether the applicant is entitled to the benefit of the scheme for grant of temporary status and regularisation.

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available to a casual labourer? The contention of the respondents that the applicant is not entitled to claim the benefit of the scheme is obviously untenable for the reason that the applicant was not responsible for his absence for a period of six years from 4/88 because the respondents themselves disengaged him and engaged him thereafter pursuant to the order passed by the Tribunal. The gap in the engagement of the applicant, therefore, being not on account of any lapse on the part of the applicant but because of the doing of the respondents, the respondents cannot take cover under their own wrong to deny the applicant the benefit of the scheme which was evolved for the purpose of rendering justice to the casual labourers who belong to the lowest rung of the society.

4. However, as the applicant has been now after reengagement admittedly rendering service for more than a year, the respondents are bound to grant the benefit flowing from the scheme to the applicant. The contention that those who were not in a position and were absent for more than 365 days as on date of issue of the order would not be entitled to the benefit of the scheme was raised by the department in several similar applications and the plea had been consistently rejected in several orders of the Tribunal. Therefore, there is no merit in this contention of the respondents.

5. In the conspectus of the facts and circumstances this application is disposed of with the following direction:

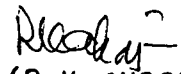
- (i) The respondents shall continue to engage the applicant so long as work is available.
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(ii) If retrenchment of the applicant for want of work becomes necessary it shall be done in accordance with the law and keeping in view the Principle "last come first go".

(iii) The case of the applicant for grant of temporary status and regularisation shall be taken up by the respondents in his turn in accordance with the scheme.

There is no order as to costs.


(R.K. AHOOJA)
Member (A)


(A.V. HARIDAS AN)
Vice Chairman (J)

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