

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.467/96

New Delhi this the 13th day of August 1996

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

1. Mohinder Pal
S/o Sh. Vidya Ram
34/87 Sainik Vihar Colony
Bindu Katra, Agra.
2. Komal Prasad Sharma
S/o Sh. Pooran Chand Sharma
R/o New Abadi, Nath Ka Bagh
Ghadi Badaria, Agra.
3. Ravinder Singh
S/o Sh. Lala Ram
R/o 34/87 Sainik Vihar Colony
Bindu Katra, Agra.

...Applicants.

[By Sh. Firoz Ahmed, Advocate]

Versus

Union of India through

1. The Chairman
Telecom Commission
Sanchar Bhawan, 20, Ashoka Road
New Delhi.
2. The Chief General Manager, NTR
Kidwai Bhawan
New Delhi - 110 001.
3. The DET (OFC) Maintenance
Tax Bhawan, Agra Fort
Agra.

...Respondents.

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

O R D E R (oral)

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

The applicants 1 & 2 were first engaged as casual Drivers in the year 1991 and the 3rd applicant was engaged as Driver on casual basis in the month of February 1992. They were being engaged as casual Drivers against vacant posts. Their grievance is that the respondents have issued a tender on 22.2.96 for engaging drivers while they are available and are performing duties of casual drivers to the satisfaction of the superiors. For no reason, unjustifiably, the respondents are inviting tenders from private agencies or individuals for driving 3 departmental vehicles. Apprehending

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that their services may be dispensed with, they have filed this application praying that the notification dated 22.2.96 issued by the respondent No.3 may be set aside, the oral orders of termination by respondents No.3 may be set aside and the respondents may be directed to retain the applicants in regular service as drivers.

2. The respondents seek to justify the impugned action on the ground that there was an audit objection against continuous engagement of casual drivers and that was the reason why they have resorted to issuing the impugned notification. They have further contended that the post of driver being a group-C post, the applicants are not entitled to regularisation as prayed for by them.

3. When the application came up on 7.3.96 for hearing on admission, notices were issued to the respondents and an interim order was issued directing that status quo regarding continuation of the applicants be maintained till the next date of hearing. This interim order was being extended from time to time and the same is still in force. Since there is an interim order operating in this case and the issue involved ^{being} ~~is~~ quite simple, as agreed to by the counsel on either side, the application is disposed of finally at the admission stage itself on the basis of pleadings available on record.

4. The contention of the respondents that the applicants are not entitled to the benefits of the scheme for regularisation is valid because the scheme is extended to only casual labourers for grant of temporary status and regularisation ^{on group-C post}. However, the stand taken by the respondents that on account of an audit objection in retaining casual drivers, they have resorted to calling for tenders from

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private agencies and individual drivers to replace the applicants is untenable. So long as there is no scheme for regularisation for Group-C employees, it is immaterial whether some persons continue to hold the duties of casual drivers or if somebody else is deployed for the same replacing some. It has been held by the Hon'ble Supreme Court in Catena Rulings that though an adhoc employee does not get a right for absorption, he has got a right not to be replaced by another ^{ad hoc} employee. On the basis of this principle, we are of the considered view that the impugned notification dated 22.2.96 has to be set aside and the respondents be directed to retain the applicants as casual Drivers so long as requirement of engaging casual Drivers exists.

5. In the result, the application is finally disposed of with a direction to the respondents not to terminate the services of the applicants so long as the necessity of engaging casual Drivers is there and that the applicants may be displaced only when there is no requirement or regular drivers are appointed.

Of the applicant rules 3 has been discharged he should be engaged for the work as casual driver, and retain him subject to availability of work.

[Signature]
 (K.Muthukumar)
 Member (A)

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

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