

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 1912/97

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

New Delhi, this the 22nd day of April, 1999

Ajay Kumar
S/o Shri Sovaram Singh
R/o 54, Chittra Gupta Road,
Paharganj, New Delhi 110 055 Applicant

(By Mrs. Rani Chhabra, Advocate)

Versus

1. Union of India
through Secretary
Ministry of Telecommunications
Sanchay Bhawan, New Delhi
2. The Chief General Manager
Telecom, Dehra Dun.
3. The Regional General Manager
Telecom, Ghaziabad
4. The Divisional Engineer(Phones)
Raj Nagar, Ghaziabad
5. The Sub Divisional Officera(Phones)
R-2/101, Raj Nagar,
Ghaziabad . . . Respondents

(By Shri K.R. Sachdeva, Advocate)

ORDER (ORAL)

The applicant claims that he had worked with the respondents as a casual labour on the installation of PCOs during 1995 and 1996. On that basis he claims that he had become eligible for temporary status with all consequential benefits. He also claims that in the circumstances his services could not be terminated without giving him notice under the Scheme called Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of the Department of Telecommunications, 1989.

2. The respondents in their reply have denied the claim that the applicant worked for 240 days continuously in a year. According to them the

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applicant only worked for a short periods of 88 days in 1994-95 and 30 days in 1995 and about three months during 1996. On that basis they submit that applicant is not entitled for the grant of temporary status.

3. I have heard the counsel. The learned counsel for the applicant submits that the engagement of the applicant has taken place ~~on~~ ACG 17 basis and in the absence of the records produced by the respondents, it is not possible for the applicant to prove his claim. We, however, submits that the applicant has actually rendered 240 days of service in 1995 as well as 1996. Since this claim is denied by the respondents, it is not possible for the Tribunal to go into the dispute of fact. Since the claim is not admitted by the respondents, the applicant cannot be granted reliefs sought for by him, i.e. grant of temporary status. The most that can be done for the applicant is that in case work is available with the respondents, and if the applicant applies for the same, he would be given due consideration on the basis of his previous experience with the respondents. The learned counsel for the respondents submits that a direction to the effect that preference would be given to the applicant is not justified because no legal right has accrued to the applicant on the basis of his engagement as a casual labour. I, however, do not agree with the argument of the learned counsel for the applicant. In case the respondents engage a person as a casual labour, they cannot replace him by another casual labour. If work is available and they have need for

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employment of such persons, the applicant has a right to be given preferential treatment on the basis of his past engagement. Even after disengagement if work is available with the respondents and the applicant applies for the same, he should be considered for the same.

3. The O.A. is accordingly disposed of with a direction that in case work is available and the applicant applies for the same, the respondents will give due consideration to the applicant on the basis of his past engagement in preference to juniors and outsiders.

/sc/


(R.K. Ahoja)
Member (A)