

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.496/94

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NEW DELHI THIS THE 19TH DAY OF OCTOBER, 1994.

MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)  
MR.B.N.DHOUNDIYAL, MEMBER(A)

1. Narendra Singh  
S/o Shri Malkhan Singh  
R/o G.118, Sector 56  
Noida.  
Ghaziabad(U.P.)
2. Reghuraj Singh  
S/o Shri Tika Ram  
R/o G-118, Sec.56  
Noida  
Ghaziabad(U.P.)
3. Devendra Kumar Mishra  
S/o Shri Chaudhry Mishra  
R/o H-116, Sector 12  
Noida  
Ghaziabad U.P. ....

APPLICANTS

BY ADVOCATE MRS.RANI CHHABRA.

Vs

1. Union of India  
through its Secretary  
Ministry of Communication  
Department of Telecommunication  
Sanchar Bhawan  
New Delhi.
2. Divisional Engineer(Phones)  
Noida,  
Ghaziabad(U.P.)
3. Assistant Engineer  
(FRS) & Transmission  
Sector 19, Noida  
Dist.Ghaziabad(U.P.)

BY ADVOCATE SHRI M.M.SUNDAN.

ORDER(ORAL)

JUSTICE S.K.DHAON:

Narendra Singh, Raghuraj Singh and Devendra Kumar Mishra are applicants No.1,2 & 3 respectively in this OA. They have come out with a specific case that they were employed as casual workers in the Department of Telecom and they rendered service to that department for 240 days in one year. Their grievance is that they are not being granted a temporary status in accordance with the scheme framed by the Telecom Department. The said scheme is known as Casual Labourers(Grant of Temporary

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Status and Regularisation) Scheme of the Department of Telecommunications, 1989(hereinafter referred to as the Scheme)

2. A counter-affidavit has been filed on behalf of the respondents. In it, it is admitted that Narendra Singh(applicant No.1) did render service to the department for 240 days in one year. However, with respect to Raghuraj Singh and Devendra Kumar Mishra(applicants 2 &3), the case set up is that they did not render service to the department for the aforesaid period in any particular year.

3. It appears to be the admitted case of the respondents that all the three applicants were in the employment of the respondents as on 1.10.1989, the date on which the Scheme came into effect.

4. Para 5(i) of the Scheme states that temporary states would be conferred on all casual labourers currently employed and who have rendered a continuous service of at least one year out of which they must have been engaged on work for a period of 240 days(206 days in the case of offices observing five day week). Such casual labourers will be designated as temporary Mazdoor. We have already stated that according to the respondents, the applicants were currently employed.

5. In the counter-affidavit, the material averments with regard to applicants 2 & 3 are these. Applicant No.2 worked for only 20 days in the year 1992, 144 days in the year 1993 and for 10 days in the year 1994. Applicant No.3 worked for 31 days in the year 1992, 192 days in the year 1993 and 10 days in the year 1994.

(3)

6. In the rejoinder-affidavit filed, the material averments are these. The applicants had worked in December 1993, January, February and March, 1994 continuously and they were not absent even for a single day but in the record produced by the respondents they have not been shown present. The entries on the basis of which the applicants were paid in the month of December, January, February and March have been destroyed by the respondents.

D 7. In support of their case, applicants 2 & 3 have produced certain documents which go to show that they did render service to the respondents during the period alleged by them.

8. On 20.5.1994, we directed the learned counsel for the respondents to produce the jumper slips for the months of February and March, 1994. On 15.9.1994, we passed the following order:

" Mr.M.M.Sudan states that despite the fact that he had contacted the department, no one has come to the court to bring the relevant record.

D We feel that for determining the controversy, production of the original record would be necessary. We direct the respondents to produce the original record on 4.10.1994 on which date the case shall be listed. It is made clear that if the record is not produced on that day, adverse inference would be drawn against the respondents.

List on 4.10.1994."

9. Shri M.M.Sudan, learned counsel for the respondents has very fairly stated at the Bar that in spite of being informed of the order passed by us for the production of the relevant record, no one from the department is forthcoming with the record. In these circumstances, we are left with no option but to draw an adverse inference against the department. The averments made by the applicants in the OA, rejoinder-affidavit and

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their corroboration by the documents produced coupled with the fact that the respondents have failed to produce the record lead us to inevitable conclusion that the case set up by applicants 2 & 3 is correct. We, therefore, direct the respondents to treat the applicants as having acquired a temporary status within the frame-work of paragraph 5(i) of the Scheme. The respondents shall also treat the applicants as temporary mazdoors.

D 10. With these directions, the OA is disposed of finally but without any order as to costs.

B.N. DHOUDIYAL

(B.N.DHOUDIYAL)  
MEMBER(A)

S.K.DHAON  
(S.K.DHAON)  
VICE-CHAIRMAN(J)

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