

-16-

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.No.360/2000

Thursday, this the 3rd day of May, 2001

Hon'ble Shri S.A.T. Rizvi, Member (A)

1. Rajeev Kant S/O Sri Sunder Lal  
82 Tehsil, Muzaffernagar
2. Smt. Ruchi Sharma W/O Sri Vishal  
Sharma 296 Anand Bhawan, Roorkee  
Road, Muzaffarnagar

..Applicants

(By Advocate: Smt. Rani Chhabra)

VERSUS

1. Union of India  
through its Secretary,  
Ministry of Communication,  
Department of Telecommunication,  
Sanchar Bhawan, New Delhi.
2. Chief General Manager, Telecom  
West, Department of Telecom,  
Windless Complex, Rajpur Road  
Dehradun.
3. General Manager, Telecom Deptt.  
of Telecommunications,  
Muzaffarnagar.
4. A.G.M. (Admn)  
O/o General Manager, Telecom,  
Department of Telecommunications,  
Muzaffarnagar.
5. Telecom District Engineer  
Department of Telecommunications,  
Muzaffarnagar.
6. Assistant Telecom Engineer,  
Department of Telecommunications,  
Dist. Muzaffarnagar.
7. Senior Section Supervisor,  
O/o Telecom District Manager,  
Department of Telecommunications,  
Dist. Muzaffarnagar.

..Respondents

(By Advocate: Shri K.R.Sachdeva)

O R D E R (ORAL)

Heard the learned counsel on either side at length and perused the material placed on record.

2

(2)

2. The two applicants in the present OA have been engaged to work in the respondent No.3's organisation from 1993 onward. The applicants' case is that while one of them was engaged as a Computer Operator on 1.2.1993, the other was engaged as an Electronic Typist from August, 1993, and that both of them continued to work till 1999 when by an oral order of 1.6.1999, their services were dispensed with. The applicants further contend that they were full time workers and used to remain at work from 9.30 AM to 6.00 PM everyday. A copy of ACG-17 has been placed on record to show that the applicants were full time worker. Both the applicants were working to the entire satisfaction of their seniors and have completed 240 days of service in each of the years without any break. A copy of a certificate has been placed on record at Annexure A-3 to show that the applicants had been working on daily wage basis. On the strength of the service thus rendered by the applicants, a prayer has been made for a direction to the respondents to reinstate them with all consequential benefits and further to direct the respondents to regularize both of them by quashing and setting aside the respondents' letter dated 1.12.1999 (Annexure A-1) by which their representation has been rejected.

3. The learned counsel appearing for the respondents has taken me through the reply filed by the respondents to show that the averments made by the applicants in support of their claim that they were working on full time basis is incorrect. According to him, the applicants were engaged to work on part time basis and

2

(3)

were paid consolidated salaries for performing part time work. According to the learned counsel, the applicants performed only as much of work as was assigned to them respectively by the respondents. Thus, the applicants worked not only on part time basis but also performed only as much of work as was assigned to them from time to time. He also contends that the applicants were last engaged in February, 1998 and never thereafter, contrary to the averment made on behalf of the applicants that their services were dispensed with w.e.f. 1.6.1999.

4. Aggrieved by their non-engagement, the same applicants had approached this Tribunal in OA-1034/99 which was decided on 20.9.1999 directing the respondents to consider the claims of the applicants and to pass a speaking order. In compliance thereof, the respondents have passed the impugned order of 1.12.1999. I have perused the same and find that the order clearly states that the applicants performed only part time work and they were not engaged at any time after February, 1998, and that the applicants were sent for acquainting themselves with the operation of software and not on training proper. The aforesaid impugned letter goes on to say that there was no sanctioned post of a Computer Operator and clearly denies that the applicants were engaged on a regular basis.

5. Insofar as the plea of re-engagement of the applicants is concerned, the learned counsel appearing for the respondents has inter alia stated that they could be engaged only against a definite post and no post of

2

(4)

the kind against which they could be engaged is available for being filled up. He also denies that the work involved was of a perennial nature. Further, according to him, the question of termination of the applicants' services does not arise as they were never formally and properly engaged by the respondents against a regular post.

6. The learned counsel for the applicants has next drawn my attention to the respondents' letter dated 31.8.1999 at Annexure A-10 (pages 45 & 46 of the paper book) which indicates that at that point of time, the respondents had created additional posts of Stenographers Grade III as well as Grade I under the Dehradun Circle which includes the District of Muzaffarnagar. The additional posts were created for the District of Muzaffarnagar also as part of the overall sanction in respect of Dehradun Circle. The contention raised by her is that the applicants could be considered for adjustment against the aforesaid additional posts of Stenographer Grade III. I am not inclined to agree inasmuch as the aforesaid post could be filled up, as argued by the learned counsel for the respondents, only in accordance with the relevant recruitment rules. Moreover, nothing prevented the applicants from filing applications for recruitment against the aforesaid posts at the proper time. The applicants could be considered for regularization against the aforesaid posts only if they had worked as Stenographers Grade III. It is admitted that they have worked only as a Computer Operator or as Electronic Typist and never as Stenographers. In the

d

(5)

circumstances, it is not possible to accept the plea advanced by the learned counsel for the applicants for possible absorption of the applicants against the post of Stenographer Grade-III.

7. The learned counsel for the applicants have next proceeded to advance the plea in terms of the Casual Labourers (Grant of Temporary status & Regularization) Scheme notified by the respondents for regularization of casual labourers. Admittedly, the applicants never worked as casual labourers and never in a post equivalent to Group 'D'. They cannot, therefore, be considered for regularization under the aforesaid scheme.

8. The applicants have no doubt raised a number of pleas in support of their claim for regularization but have not succeeded in placing on record any paper which would support their contention that they had been working as full time worker in the employ of the respondents. The certificate placed on record by them (Annexure A-3) has been termed as un-authentic by the respondents having been issued by an officer not competent to issue such a certificate. The copy of ACG-17 placed on record is a mere receipt and cannot assist the applicants in support of their claim that they were full time workers. Their claim for regularization etc. has already been adjudicated upon by this very Tribunal and in the wake of the order passed by the Tribunal, a detailed order has been issued by the respondents to which I have already adverted in an earlier paragraph. In the manner argued by the learned counsel for the respondents, the aforesaid

2

(6)

order is a speaking order and a reasoned order and it is not possible to find any fault with the same. In view of the aforesaid order, ordinarily there should have been no need to pursue the matter further. However, the applicants have chosen to file the present OA to seek further remedy in the matter without providing sufficient material/information which could favour the claim preferred by them.

9. In the totality of the facts and circumstances outlined in the preceding paragraphs, I find the OA has no force and deserves to be dismissed. The OA is, therefore, dismissed without any order as to costs.



(S.A.T. Rizvi)  
Member (A)

/sunil/