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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.1985/89

DATE OF DECISION 19-12-91

Shri Ajmer Singh & Ors

- Applicants

Mrs. Rani Chhabra

- Advocate for the Applicants.

Versus

Union of India & Ors.

- Respondents.

Shri P.P. Khurana,

- Advocate for the Respondents.

CORAM:

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN (J)

The Hon'ble Mr. B.N. DHOUNDIYAL, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*

2. To be referred to the Reporter or not? *Yes*

JUDGEMENT

(of the Bench delivered by Shri B.N. Dhoundiyal Hon'ble Member(A)).

1. This O.A. has been filed under Section 19 of the Central Administrative Tribunal Act 1985 by S/Shri Ajmer Singh and four others aggrieved by the order dt 22.4.87 issued by the Telecommunication Department for retrenchment of casual labourers engaged after 31.3.85.

2. The version of the applicants is as follows:

Applicant No.1 Ajmer Singh was recruited by the Asstt. Engineer Coaxical Cable Construction, Jullundhar, in January 1987 and was on deputation to other projects where he worked till 31.7.89. On being sent back to the Coaxical Cable Construction Project, he was not allowed to join. He had worked for over 500 days at the time of his retrenchment.

3. The other four applicants were engaged as casual labourers, construction office, Telephones, Meerut. Applicant No.2 Shri Ambika Prasad Tiwari had worked for 557 days; he was issued one month's notice for termination of services on 31.8.89 but he continued in service under the stay order granted by this Tribunal on 29.9.89. Applicant No.3, Manoj Kumar, had worked for 732 days and was disengaged in Sep 1988. Applicant No.4 Shri Ram ^{Pal} ~~Singh~~ worked for 124 days till 1.8.89. Applicant No.5 Shri Kalicharan worked for 938 days. He was retrenched on 1.9.89 after one month's notice.

4. The applicants allege denial of regularisation on the ground that under the impugned circular dated 22.4.87, those casual labourers engaged after 31.3.85 are to be retrenched. The respondents are even now making fresh recruitments as the existing strength is not enough to cope with the increasing work load. The applicants have referred to two instances where similarly situated colleagues of their had ^{gone} to Supreme Court and have secured stay orders on their termination. The applicants have prayed that the circular dt 22.4.87 laying down 31.3.85 as cut off date may be quashed and they may be absorbed permanently in service.

5. The respondents have contended that the casual labourers are engaged for a specific work and when the work is over, their services are terminated. This Coaxial Cable Scheme in which applicant No.1 was engaged was completed and he was thereafter disengaged. Similarly the project work in which applicant No.2 to 4 were working was

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over and their services were no longer required. The principle of 'Last come First Go' was followed.

5. We have gone through the facts of the case and have heard the learned counsel for both the parties. The following issues have already been settled in the case already decided by the Supreme Court and this Tribunal:

(i) This Tribunal has jurisdiction to entertain the cases of Casual labourer/daily wager under section 19 of the Administrative Tribunal Act, 1985, Judgement of the full Bench of the Tribunal Rahamathullah Khan Vs U.O.I. & Ors 1989(2) SCJ 293 CAT}.

(ii) The State cannot deny to the casual labourers atleast the minimum pay scales of regularly employed workmen, even though the Government may not be compelled to extend all the benefits enjoyed by the regularly recruited employees. A scheme was prepared by the Post and Telegraph Department on the directions of the Supreme Court for absorbing the casual labourers as 'Casual labourers (group of temporary status for regularisation)'. (Bhartiya Dak Tar Mazdoor Manch Vs. U.O.I. & Ors. AIR 1987 SC 2342).

6. In our opinion, the cut-off date of 31.3.85 for the purpose of engagement of casual labourers is not legally tenable as it is not found on any rational basis.

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7. In the light of the above, another Bench of this Tribunal of which one of us (Shri P.K. Kartha) was a party, gave a decision on a batch of 10 applications on 18.5.90 (Hari Shankar Swamy & Ors. Versus U.O.I. & Ors., holding that the action of the respondents to give the benefit of regularisation scheme only to those employees who were engaged before 1.4.85 was not legally sustainable.

8. The respondents have themselves admitted that the applicants have worked for period ranging from ^{421 days} ~~124~~ days to 938 days. Following the ratio of the above mentioned Judgements, we hold that the applicants are entitled to succeed. The applications are therefore disposed of with the following orders and directions:-

(i) We set aside and quash the impugned orders terminating the services of the applicants.

The respondents are directed to reinstate the applicants ^{16.5} ~~2~~ in service as casual labourers within the period of 3 months from the date of communication of this order.

(ii) After reinstating them, the respondents shall consider regularising their services in accordance with the scheme prepared by them. Till such regularisation, they shall be paid minimum pay in the pay scale of regularly employed workmen and shall be entitled to the benefits and privileges envisaged in the Judgement of the

Supreme Court, in Jagrit Mazdoor Union's case.
LN 1989(2) SCALE 1455

(iii) In the facts and circumstances of the case,
we do not direct payment of any back wages
to the applicants.

(iv) There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 19/12/81
Member(A)

P.K. Kartha
(P.K. KARTHA)
Vice Chairman(J)

Corrected vide order dated 24-3-92 on
MP No 197/92.

Amrith

Amrith
24/3/92