

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO. 2453 of 1989

DATE OF DECISION: 23.10.90.

PURAN. MAL

...APPLICANT

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

MRS. RANI CHHABRA

..COUNSEL FOR THE APPLICANT

SHRI M.L. VERMA

..COUNSEL FOR THE RESPONDENTS

CORAM:

HON'BLE SHRI T.S. OBEROI, JUDICIAL MEMBER

HON'BLE SH.I.K.RASGOTRA, ADMINISTRATIVE MEMBER

J U D G E M E N T

(DELIVERED BY HON'BLE SHRI I.K. RASGOTRA, MEMBER(A)

Shri Puran Mal, a daily wage typist/clerk has filed this application under Section 19 of the Central Administrative Tribunals Act, 1985, apprehending that his services would be terminated in pursuance of the Order No.270/6/84 dated 22/4/1987 issued by the Department of Telecommunications, as he was recruited after the crucial date of 31-3-1985.

2. The applicant was appointed as a casual typist clerk in the Department of Satellite Communication Project on 1st December, 1985 and had worked uninterruptedly for more than 1333 days. He has contended that his retrenchment would constitute denial of the right to livelihood and that retrenchment after such a long period would be violative of Fundamental Rights enshrined in Articles 14, 16 and 21 of the Constitution. By way of relief, he has claimed that (i) the circular

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No. 270/6/84 dated 22nd April, 1984 be quashed in as much as the same is contrary to law laid down by the Hon'ble Supreme Court (ii) to restrain the respondents from retrenching the applicant pursuant to the said circular dated 22nd April, 1987 as such an action would be violative of the provisions made in Article 14, 16 and 21 of the Constitution and (iii) to direct the respondents to absorb the applicant in regular service with all benefits. A interim stay restraining the respondents from terminating the services of the applicant was granted by the Tribunal on 8th December, 1989.

3. The respondents in their written statement have submitted that the applicant is working as a casual labourer and is not a holder of any civil post. Further, he has not exhausted alternative departmental remedies available to him before approaching the Tribunal. The application is therefore misconceived and not maintainable under the law. On merits it has been submitted that the applicant was engaged as a casual typist on a purely casual basis for specific job. Such Casual labourers are retrenched when the specific job/project is completed. In such an eventuality, they are paid one month's wages in lieu of one months notice and compensation as provided in the Industrial Disputes Act, 1947. It has been further averred that the RABMN Satellite maintenance are separate circles and that they were not under the jurisdiction of Satellite Projects Organisations. The applicant cannot therefore be adjusted in RABMN Organisation. The respondents have no doubt formulated a scheme called "grant of temporary status and regularisation of casual labourers" who were engaged before 31st March, 1985 but the scheme is not applicable to those casual labourer who are employed after the crucial date and to those who are engaged on purely casual jobs.

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4. The applicant is working against a Group 'C' post as a casual typist/clerk for over four years. Further, the respondents have formulated a scheme to grant temporary status and to regularise casual labourer engaged prior to 31st March, 1985, in pursuance of the directions given by the Hon'ble Supreme Court as under: -

"We direct the respondents to prepare a scheme on ^a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year with the Posts & Telegraph Department." (1988(1) SCC 122

Daily rated casual labour employed under Post and Telegraph Department Vs. U.O.I. & Ors.)

The crucial date viz. 31-3-1985 fixed by the respondents however appears to have been determined purely on the grounds of administrative convenience. This aspect had come up for consideration in the case of Sunder Lal & Others Vs. U.O.I. & Ors. in OA No. 529/88 by the Principal Bench of the Tribunal presided over by Shri K. Madhav Reddy, the then Chairman. In that case, the respondents had terminated the services of the casual labourers on the basis of a decision taken by them to retrench the daily rated mazdoors who had been appointed after 1-4-1985 even though they had put in nearly 3 years of service. The Tribunal held that the Administrative decision to retrench all those who were employed after 1-4-1985 was not legally sustainable. The impugned order of termination of service was therefore quashed by the Tribunal with the direction to the respondents to reinstate the applicants with immediate effect and to consider them for absorption. We are therefore of the view that whatever benefit is conferred on the casual labourers engaged

prior to 31st March, 1985, has in equity to be extended to those who were engaged after that date if they fulfil other conditions laid down for grant of "temporary status and regularisation" as laid down in Circular letter No.270/6/84 dated 22-4-1984.

The applicant however is holding a Group 'C' post of typist/clerk on casual basis for the last four years. He can be appointed on a regular basis to the post only if he passes the requisite selection examination conducted by the Staff Selection Commission. This however, should not come in the way of conferring the temporary status on him after completion of one year's service.

In the facts and circumstances of the case, we order and direct that

(a) the applicant shall be eligible for grant of temporary status from the date he completed 240 days' service (206 days in the case of office observing five day week) and shall accordingly be entitled to payment of salary at the minimum of the scale of pay applicable to the post of typist/clerk.

(b) the respondents shall facilitate his appearing in the requisite selection examination to be held by the Staff Selection Commission for the post of typist/clerk and provide adequate opportunity for qualifying in the said selection examination. In case he fails to qualify in the selection examination, he would be liable for retrenchment in accordance with the Rules; and

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(c) he also shall be entitled to other benefits applicable to casual employees granted temporary status from the date the temporary status is conferred on him as above.

The OA is disposed of with the above directions with no orders as to costs.

S. K. RASGOTRA (I.K. RASGOTRA)
MEMBER (A) 23/10/90

T. S. OBEROI (T.S. OBEROI)
MEMBER (J)