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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2561/89

Date of Decision 3-1-92

Shri Jagat Pal Singh

Applicant.

Mrs. Rani Chhabra

Counsel for the applicant.

Versus

U.C.I. & Ors.

Respondents.

Shri P.P. Khurana

Counsel for the respondents.

CORAM:

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

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 of Hon'ble Shri B.N. DHOUNDIYAL, Member (A).)

This O.A. has been filed under Section 19 of the Central Administrative Tribunal Act 1985 by Shri Jagatpal Singh challenging the impugned circular No.270/6/84 STM dated 22.4.87 issued by the Department of Telecommunication directing retrenchment of casual labourers engaged after 31.3.85.

2. The applicant has stated that he has been working since May 1, 1988 as a Chaukidar under Sub Divisional Officer, Phones, Ghaziabad. At the time of filing the application, he had worked continuously for almost 597 days and was doing the same work as regular employees. He alleges denial of regularisation on the ground that under the impugned circular dated 22.4.87, casual labourers engaged after 31.3.85 are to be retrenched. The respondents are even now making fresh

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recruitment as the existing strength is not enough to cope with the increasing work load. The applicant refers to two cases where similarly situated colleagues of his have gone to Supreme Court and have secured stay orders on their termination. The applicant has prayed that the circular dt. 22-4-87 laying down 31-3-85 as cut off date may be quashed and he may be absorbed permanently in service.

3. An interim order restraining the respondents from termination of the services of the applicant was passed on 26-12-89 and the same was extended from time to time.

4. The respondents have contended that the scheme prepared by the P & T Deptt. under directions of the Supreme Court in the case of Bhartiya Dak Tar Mazdoor Manch Vs. U.O.T. AIR 1987 S.C. 2342 envisages regularisation all the workers who had worked continuously for one year as on 1-4-87. The applicant entered the service only on 1-5-88. He is overaged, his date of birth being 8-7-57. They have denied that fresh recruitments are being made.

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

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

(ii) The state cannot deny to the Casual Labourers atleast the minimum pay scales of regularly employed workmen,

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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 Known as 'Casual Labourers (grant of temporary status for regularisation) (Bhartiya Dak Tar Mazdoor Manch Vs. U.O.I. & Ors. AIR 1987 SC. 2342).

6. The cut off date of 30-3-85 is not based on any rational basis and is not legally tenable.
7. On 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. Vs. 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 applicant has worked for 597 days. Following the ratio of above the abovementioned Judgements we hold that the applicant is entitled to succeed. The application is therefore disposed of with the following orders and directions :-

- (i) The applicant shall continue to be engaged as a casual labour. The interim order passed on 26.12.89 is hereby made absolute.
- (ii) The respondents shall consider regularising his services in accordance with the scheme prepared by them. Till such regularisation, he shall be paid minimum pay in
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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 Massdoor Union's case (1989(2)SCALE 1455).

(iii) Age relaxation to the extent of service rendered shall be given to him.

(iv) In the facts and circumstances of the case we do not direct payment of any back wages to the applicant.

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

B.N. Dholiyal
(B.N. DHOUNDIYAL) 3/1/92
Member (A)

Ans
Ans 3/1/92
(P.K. KARTHA)
Vice Chairman (J)