

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1141/1988
O.A. No. 2068/1988

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DATE OF DECISION 8-6-90

(1) Harpal Singh & others (2) Kartar Singh & others <u>Sh. E.X. Joseph,</u>	Applicants/ Petitioner Advocate for the Petitioner(s)
Versus	
<u>Union of India & ors.</u> <u>Sh. P.H. Ramchandani, Sr. Counsel</u> <u>and Shri P.P. Khurana, Counsel</u>	Respondents Advocate for the Respondents

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

The Hon'ble Mr. D.K.CHAKRAVORTY, 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? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice Chairman)

The grievance of the applicants in these two applications filed under Section 19 of the Administrative Tribunals Act, 1985 relates to the termination of their services and their non-regularisation in the posts in which they have worked for more than one year in the Posts and Telegraphs Department under the Ministry of Telecommunication. As common issues have been raised, it is proposed to deal with them in a common judgement.

2. At the outset, it may be observed that the legal position in this regard has been dealt with in detail in the light of the relevant judicial pronouncements, in our judgement dated 16-5-90 in a batch of 10 similar cases (OA 1833/87 and connected matters-Harishankar Swamy & others v. Union of India & others) to which both of us were parties.

3. The applicants have worked as casual labourers with various designations such as Assistant Wireman, Khalasi, Beldar and Workman for more than one year. The Industrial Disputes Act, 1947 applies to them. The services of applicants 1,2 and 3 in OA 1141/88 were terminated on 29-3-88, that of applicant No.4 on 23-3-88 and that of applicant No.5 on 23-2-88. The services of the applicants in OA 2068/88 were terminated on 10-10-88.

4. The respondents have contended in their counter-affidavit in OA 1141/88 that applicant No.4 left the work on his own on 5-1-88 and that the others were terminated due to want of vacancies or on completion of work. Their contention in OA 2068/88 is that there are not enough vacancies.

5. Having heard the learned counsel of both parties and gone through the records carefully, we are of the opinion that the termination of the services of the applicants is not legally supportable in view of the decisions of the Supreme Court in Daily Rated Casual Labour employed under P&T Department v. Union of India and others, AIR 1987 SC 2342 and Jagrit Mazdoor Union v Mahanagar Telephone Nigam Limited, 1989(2) SCALE 1455 and the orders passed by the Supreme Court in the said matters. These have been discussed in our judgement dated 18-5-90 in Hari Shankar Swamy's case mentioned above.

6. The applications are disposed of with the following orders and directions:-

- (1) The impugned orders dated 29.3.88, 23-3-88 and 23-2-88 in OA 1141/88 and the impugned orders dated 10-10-88 in OA 2068/88 are set aside and quashed. The respondents are directed to reinstate the applicants

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in service within a period of 3 months from the date of communication of this order. After reinstating them, the respondents shall consider regularising the services of the applicants in accordance with the scheme prepared by them. Till they are so regularised, they shall be paid the minimum pay in the pay scale of regularly employed workmen in the respective posts. They would also be entitled to all the benefits and privileges envisaged in the judgement of the Supreme Court in Jagrit Mazdoor Union's case, mentioned above;

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

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

7. Let a copy of this order be placed in both the case files.

(D.K.CHAKRĀVORTY)
MEMBER

8/6/90

(P.K.KARTHA)
VICE CHAIRMAN