

10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 1185/88, date of decision: 15.11.93

Hon'ble Shri C.J. Roy, Member(J)
Hon'ble Shri P.T.Thiruvengadam, Member(A)

Shri Srinivas Singh
Office of SDO Phones
86, Shahdara
Delhi & Others .. Applicants
By Shri B.K. Aggarwal, Advocate

VERSUS

Union of India, through

1. Secretary,
Dept. of Telecommunications
Sanchar Bhavan, New Delhi

2. District Manager
Ghaziabad Telephone District
Ghaziabad, U.P.

3. Sub-Divisional Officer phones
86, Shahdara Telephone Exchange
Shahdara, Delhi .. Respondents

By Shri P.P. Khurana, Counsel with
Shri George, Advocate

ORDER (ORAL)

Hon'ble Shri P.T.Thiruvengadam, Member(A)

The applicants were engaged on daily wage basis as casual mazdoors in the Department of Telecommunication. The applicants claim that they were engaged in early 1986 and had been continued till June, 1988, when that Department sought to terminate their services by a letter dated 3.6.1988 by giving one month's notice. As per the interim order passed by this Tribunal on 28.6.88, the services of the applicants were continued and the applicants are still in service. This OA has been filed with a prayer for the following reliefs:

- a) Respondents be directed to regularise the services of the applicants in the Department against permanent vacancies;
- b) Direct the Respondents to give security of job and equal pay to the applicants as is available to regular employees;

- c) To direct the respondents that the applicants are temporarily employed and their services can not be dispensed with except by due process of law;
- d) To direct the respondents to frame the rules under Article 309 of the Constitution of India in respect of the services of the applicants; and
- e) To direct the respondents not to throw the applicants out of job.

2. Various issues connected with engagement of casual labourers, their service conditions, regularisation against permanent vacancies, etc have been agitated before a number of Courts, ^{and} specifically with regard to Telecommunication Department. The Hon'ble Supreme Court in its judgement dated 27.10.87 in WP No.373/1985 had directed that a scheme should be prepared on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year. The learned counsel for the respondents states that a scheme to this effect has already been made out by the Department and the case of the applicants will be considered as per the details of that scheme subject to availability of vacancies.

3. With reference to the relief for equal pay vis-a-vis regular workers engaged in similar nature of work, the respondents concede that the Department has issued instructions vide letter No.1013/87-Rates dated 23rd February, 1988, which says that "all the casual labourers engaged on casual basis are to be paid wages worked out on the basis of the minimum pay in the pay scale of regularly employed workers in the corresponding cadre but without any increment, with effect from the 5th February, 1986. The casual labour will also be entitled to DA and ADS, if any, on the minimum of the pay scale. The arrears at the enhanced rate are to be paid by 25.2.1988".

4. It is the case of the applicants that despite availability of such instructions, they have not been paid at the enhanced rate from 5.2.86 and accordingly they are entitled for arrears at the enhanced rates from 5.2.1986. Hence we direct the Respondents to pay these arrears, if not paid so far.

5. As regards the next relief relating to security of job, the learned counsel for the applicants argues that the applicants should not be retrenched. The only direction that can be given in this regard is that the applicants should be continue so long as there is work and their juniors in the ^{relevant} relative seniority list are engaged.

6. As regards the relief directing the respondents that the applicants are to be temporarily employed, it was clarified by the learned counsel for the applicant that what the applicants are seeking is temporary status as casual labourers pending regularisation against permanent vacancies. It is admitted that a scheme for the grant of temporary status has been prepared by the Department of Telecommunications. Letter No.E-31/CL/Temp. Status/2 dated 14.12.89 with Memo No.269-10/89-STN dated 7.11.89 was produced on the spot. Though the instructions in this letter cover only casual labourers engaged prior to 30.3.85 for the purpose of conferment of temporary status, sub-para 6 of the letter mentions that cases of casual labourers engaged in the department after 30.3.85 but otherwise eligible and still working requiring consideration of temporary status should be forwarded to the higher authority. Subsequently, a scheme known as Casual Labourers (grant of temporary status for ~~ex~~ regularisation) ^{finalised} scheme has been forwarded and put into operation from 1.10.89. A copy of the same was placed for the consideration of the Supreme Court in Jagrit Mazdoor Union Vs. Mahanagar Telephone Nigam Limited 1989(2)SCALE 1455. The Supreme Court found

that the scheme was comprehensive and apart from provision for conferment of temporary status, it also specified the benefits available on conferment of such status. In view of the availability of such a scheme, the applicants will be entitled to the benefits which flow out of this scheme.

7. Since the department has already framed necessary scheme with regard to payment of wages, grant of temporary status and regularisation, no further direction is required, as prayed for in one of the reliefs that the respondents should frame suitable rules to cover various aspects.

8. The OA is disposed off with the above directions. Time for implementation with regard to payment of arrears in wages as per para 4 above and for conferment of temporary status with consequential benefits as per para 6 above is six months. The points regarding continued engagement as referred in para 5 and the assurance regarding regularisation against permanent vacancies as per para 2 should be borne in mind by the Respondents.

No costs.

P.T.Thiruvenkadam

(P.T.Thiruvenkadam)
Member (A)
15.11.93

(C.J. Roy)
Member (J)
15.11.93