

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A. No. 1476/90
T.A. No.

199

DATE OF DECISION 2.8.1991

Shri Munim Singh and Others Petitioner Applicants

Shri O.P. Gupta Advocate for the Petitioner(s) Applicants

Union of India & Others Versus Respondent

Shri Rajiv Sharma Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
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 applicants before us have worked as Casual Mazdoors in the Office of the respondents before their services were terminated by the respondents by way of verbal orders. They have challenged the validity of the impugned order of termination dated 26.5.1990 issued by the Executive Engineer, Telecom, Department of Telecommunication, Agra, whereby the services of the applicants were terminated w.e.f. 25.6.1990.

2. The facts of the case in brief are as follows. The names of the applicants were sponsored by the Employment

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Exchange and they were appointed as Casual Mazdoors.

According to the applicants, who are 10 in number, they have worked for periods ranging from December, 1984 to 24th June, 1990. According to the version of the respondents, they were engaged in the Agra Division during the period ranging from May, 1988 to 24th June, 1990. Admittedly, therefore, they worked for more than one year in the service of the respondents.

3. The applicants were given notice in March, 1990 informing that their services would not be required any more. They have contended that this act on the part of the respondents is in breach of the scheme of regularisation/absorption envisaged by the respondents after the Supreme Court delivered its judgement in Daily-rated casual labour employed under P & T Department Vs. Union of India & Others, A.I.R. 1987 S.C. 2340. The representations made by them did not yield any result.

4. The respondents have stated in their counter-affidavit that the Office of the General Manager, Telecommunication, Railway Electrification Project Circle, Nagpur, was established w.e.f. 1.4.1984. The Railway Electrification Project of the Department of Telecommunication is engaged in projects which are of a purely temporary nature. The work involved is of shifting or realigning of lines, pursuant to the electrification of railway tracks. The requirement of the number of

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labourers keeps fluctuating, depending on the work. After the completion of the project at Agra, there is neither any on-going or anticipated new works in the neighbourhood or in any part of Northern India comprising States of U.P., Punjab, Haryana, Rajasthan, Himachal Pradesh, etc. According to them, due compensation has been paid to all the Casual Labourers on 23.6.1990. They have denied the contention of the applicants that they are entitled to the benefit of the scheme prepared by them for absorption of Casual Labourers. In this context, they have relied upon a letter dated 7th November, 1989 issued by the Department of Telecommunication, according to which, casual labourers could be engaged after 30.3.1985 in project and electrification circles only for specific work and on completion of the work, the casual labourers so engaged are required to be retrenched. In the unlikely event of there being any Casual Labourer engaged after 30.3.1985, requiring consideration for conferment ^{or} of temporary status, such cases should be referred to the Telecom Committee with relevant details and particulars regarding the action taken against the officer under whose authorisation/approval irregular engagement/non-retrenchment was resorted to.

5. The respondents have contended that in view of the aforesaid letter, the action taken by them cannot be

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be assailed by the applicants. The respondents have also contended that as in the case of regular Group 'D' employees, seniority of casual labourers and their engagement on that basis, is on Divisional basis.

6. We have carefully gone through the records of the case and have considered the rival contentions. In our opinion, the cut-off date of 30.3.1985 mentioned in the letter of the Department of Communications dated 7th November, 1989, is arbitrary and is not legally sustainable. The fixing of such a date is not based on any rational ground. The judgement of the Supreme Court in the case of Daily-rated casual labour employed under P & T Department, nowhere lays down that only casual labourers who are engaged prior to 30.3.1985, would be entitled to regularisation. The Supreme Court had directed the respondents to prepare a scheme on a rational basis for absorbing "as far as possible" the casual labourers who had been continuously working for more than one year in the Posts & Telegraphs Department. The particulars of engagement of the applicants given in the Annexures to the application, indicate that at least some of them were working as Casual Labourers in the office of the respondents on 27.10.1987, on which date the Supreme Court delivered its judgement.

7. The respondents have prepared a scheme for regularising casual labourers pursuant to the judgement of the Supreme Court, mentioned above. The scheme came into force on 1.10.1989. It

would be provides, inter alia, that "temporary status" conferred on all Casual Labourers "currently employed" and who had rendered continuous service of at least one year out of which, they must have been engaged on work for a period of 240 days (206 days in the case of offices observing 5 days a week). Such Casual Labourers will be designated as 'Temporary Mazdoors'.

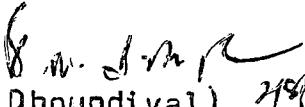
8. In any event, the applicants must be deemed to have attained temporary status in accordance with the scheme as they have worked continuously for a period of one year at the time of coming into force of the scheme on 1.10.1989, even according to the version given by the respondents in their counter-affidavit. We, therefore, hold that the applicants would be entitled to the benefit of the scheme prepared by the respondents for absorption of Casual Labourers.

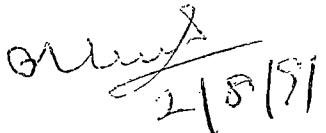
9. The plea of the respondents is that after the project work at Agra is over, there is no other on-going project in which the applicants could be accommodated. We see no merit in the system of maintenance of seniority of Casual Labourers on Divisional basis when the respondents have their offices all over India and they need the services of the Casual Labourers for various on-going projects. The infirmity in maintaining seniority of casual labourers Division-wise,

will be apparent if the services of Casual Labourers who have worked for a longer period, are retrenched as against a Casual Labourer, who has rendered lesser length of service in another Division, is retained in service merely because there was no work in the former Division and there was work in the latter. In our view, if there is work in Divisions other than the Division from which the applicants were terminated, they should be offered work of Casual Labourer, wherever vacancies exist, depending on the total length of service rendered by them.

10. We, therefore, partly allow the application with the aforesaid directions. The respondents shall comply with the above directions within a period of two months from the date of receipt of this order. We further direct that the respondents shall also consider the suitability of the applicants for regularisation in accordance with the scheme prepared by them pursuant to the judgement of the Supreme Court, mentioned above, depending on the availability of vacancies in their offices located throughout the country.

There will be no order as to costs.


(B.N. Dhoundiyal) 21/5/91
Administrative Member


(P.K. Kartha)
Vice-Chairman (Judl.)