

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. OA 2441/90
T.A. No.

199

DATE OF DECISION 30.03.1992

Shri Surinder Kumar

Petitioner

Shri V.P. Sharma

Advocate for the Petitioner(s)

Versus

U.O.I. through the Secretary, P&T Board, Respondent

Dak Tar Bhawan & Others

Shri P.H. Ramchandani, Sr. Counsel

Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. A.B. GORTHI, 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 ? *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*

JUDGMENT (ORAL)

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

The applicant, who has worked as a casual labourer in the office of the respondents (Telecom Sub Division No.3, Health Centre, Ghaziabad) from 03.09.85 to 30.09.87, has prayed that the termination of his services by verbal order with effect from 01.10.1987 be set aside and quashed and that the respondents be directed to regularise his services from the date persons junior to him were regularised.

2. The respondents have admitted that the applicant had worked as a casual labourer during the aforesaid period. However, they have sought to justify the termination of the services of the applicant by relying upon the administrative

a

instructions issued by the Ministry of Communications, according to which, casual labourers should not be engaged on muster roll after 30.03.1985. With regard to the contention of the applicant that the respondents have retained the services of one Shri Pooran Chand while terminating his services, the respondents have contended that Shri Pooran Chand has been retained pursuant to the directions contained in the judgment of this Tribunal dated 18.05.1990 in OA 1812/88.

3. We have perused the records of the case and have heard the learned counsel of both parties. The case of the applicant is similar to the case of Shri Hari Shankar Swamy & Others Vs. Union of India & Others and a batch of other cases which were disposed of by a common judgment dated 18.05.1990[OA 1833/87 and connected matters]. The application filed by Shri Pooran Chand was also one of the connected matters disposed of by the aforesaid judgment. The applicants in those cases also belonged to the Ministry of Communication and had completed more than 240 days of service as casual labourers, like the applicants before us.

4. In the case of Daily Rated Casual Labour employed under the P&T Departments Vs. Union of India & Others, AIR 1987 SC 2342, the Supreme Court directed the Government to prepare a scheme for absorbing as far as possible the casual labourers, who had been continuously working for more than one year in the Posts and Telegraphs Department. Accordingly, a scheme was formulated and put into operation from 01.10.1989. The scheme which was placed before the Hon'ble Supreme Court in Jagrit Mazdoor Union Vs. Mahanagar Telephone Nigam Ltd., 1989(2) SCALE 1455, has also been approved by the Supreme Court.

5. In the case of Sunder Lal & Others Vs. Union of India & Others [OA 529/88], the Principal Bench of this Tribunal had held in its judgment dated 04.05.88 that the administrative

decision taken by the respondents to retrench all those who were employed after 01.04.1985 was not legally sustainable. The respondents were accordingly directed to reinstate in service the applicants in that case. We reiterate the same view.

6. Following the decisions of the Supreme Court in the case of Daily Rated Casual Labourer employed under the P&T Department and in Jagrit Mazdoor Union's case, the present application is disposed of with the following orders and directions:-

(i) The impugned order of termination of services of the applicant with effect from 01.10.1987 by verbal order is set aside and quashed. The respondents are directed to reinstate in service the applicant as a casual labourer as early as possible but preferably within a period of 3 months from the date of communication of this order.

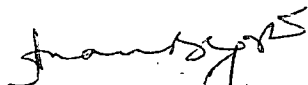
(ii) After reinstating the applicant, the respondents shall consider regularising his services in accordance with the scheme prepared by them. Till he is so regularised, he shall be paid the minimum pay in the pay scale of regularly employed workmen.

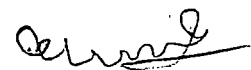
~~XXXXXXXXXXXXXXXXXXXX~~ He would also be entitled to all the benefits and privileges envisaged in the judgment of the Supreme Court in Jagrit Mazdoor Union's case, mentioned above.

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

(iv) The application is disposed of accordingly.

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


(A.B. GORTHI)
MEMBER (A)
30.03.1992


(P.K. KARTHA)
VICE CHAIRMAN(J)
30.03.1992