

In the Central Administrative Tribunal
Principal Bench, New Delhi.

Regn. No.: CA-2538/90

Date: 4.9.1992

Shri B.D. Tewari & Another Applicants

Versus

Union of India through Respondents
Secy., Ministry of
Communications & Ors.

For the Applicants Smt. Rani Chhabra, Advocate

For the Respondents Shri M.L. Verma, Advocate

CORAM: Hon'ble Mr. P.K. Kartha, Vice-Chairman (Jrnl.)
Hon'ble Mr. B.N. Dhundiyal, 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*

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

The applicants have worked as casual labourers in the Department of Telecommunications and also aggrieved by the termination of their services in view of a policy decision taken by the respondents not to regularise casual labourers who were engaged after 31.3.1985. Applicant No.1 worked for 1750 days, while applicant No.2 has worked for a period of 1501 days since September, 1986. They have stated that there are a number of projects in the hands of the respondents and they are still recruiting fresh workers, overlooking the claims of the applicants.

On

....2...

6

2. The stand of the respondents is that the project in which the applicants had been engaged, had been completed and they were declared surplus. According to them, it is not possible to accommodate the applicants further.

3. We have gone through the records of the case carefully and have heard the learned counsel for both the parties. The question relating to the regularisation of casual labourers in the Ministry of Communications has been considered by this Tribunal in a batch of applications which were disposed of by judgement dated 18.5.1990 in Hari Shankar Swamy & Others Vs. Union of India & Others, 1992 (20) A.T.C. 617. The Supreme Court had directed the respondents in the case of daily-rated casual labourers employed under the P & T Department Vs. Union of India, 1988 (1) SCC 122, 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. A scheme known as 'Casual Labourers (Grant of Temporary Status for Regularisation) Scheme' has been formulated and put into operation from October 1, 1989.

4. Following the aforesaid decision of the Supreme Court, this Tribunal had decided on 4.5.1988 OA-529/99 (Sunder Lal Vs. Union of India). In that case, the

q

respondents had terminated the services of the applicants on the basis of a decision taken by them to retrench the daily-rated mazdoors who had been appointed after April 1, 1985. In view of the decision of the Supreme Court, the Tribunal held that the administrative decision to retrench all those who were employed after April 1, 1985, was not legally sustainable.

5. Reiterating the aforesaid view, this Tribunal disposed of the batch of applications in Hari Shankar Swamy's case with the direction to the respondents to reinstate in service the applicants and to consider their regularisation in service in accordance with the scheme prepared by them.

6. We respectfully reiterate the aforesaid view. Accordingly, the application is disposed of with the following orders and directions:-

- (i) We set aside and quash the disengagement of the applicants. The respondents are directed to reinstate the applicants in service wherever vacancies exist and in preference to persons with lesser length of service and outsiders. They shall do so as expeditiously as possible and preferably within a period of three months from the date of receipt of this order.

After reinstating them, the respondents shall consider conferring temporary status on the applicants in accordance with the provisions of the scheme prepared by them. They should also consider the regularization of the applicants in accordance with the said scheme. Till they are so regularised, they shall be paid the minimum pay in the pay-scale of regularly employed workers in their 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 Vs. M.I.E.L., 1990 S.C.C. (L&S) 606.

- (ii) In the facts and circumstances of the case, we do not direct payment of back wages to the applicants. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal)
Administrative Member

P.K. Karthi
(P.K. Karthi)
Vice-Chairman (C-1.)