

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 2686/90

New Delhi, this the 19th December, 1994

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri S.R. Adige, Member (A)

1. Shri Vishnu Dutt,  
s/o Shri Jaipal,  
R/o House No. 867,  
Block -I, Manglopuuri,  
New Delhi.

2. Shri Pawan Kumar Choudhri,  
s/o Shri Nilamber Choudhri,  
P.O. & Village Baiseth,  
Madhubani (Dt),  
Bihar.

... Applicants

By Advocate: None

Vs.

1. Union of India  
through the Secretary,  
Ministry of Telecommunication,  
New Delhi.

2. General Manager Telecommunications,  
(Railway Electrification Project),  
Nagpur.

3. D.E.T. (Rly Electrification),  
B-1/10, Shopping Centre,  
Janakpuri, New Delhi.

4. The Asst. Engineer,  
Department of Telecommunications,  
Rly. Electrification Project,  
1/13, Vibhava Nagar,  
Agra, U.P.

.... Respondents

By Advocate: None

O R D E R (ORAL)

Hon'ble Shri J.P. Sharma, Member (J)

The applicants were engaged by the Assistant Engineer (R.E.), Agra on casual basis locally. The applicants have worked for different spells for a number of days as casual labourers. The grievance of the applicant is that they have been served with the notice of retrenchment by the Department of

Telecommunications dated 26.3.90 without observing the procedure provided in the I.D. Act. In December, 1990 the applicants filed this application and prayed for the grant of the reliefs that the applicants be reinstated and regularised in their appointment by setting aside the order of retrenchment with all benefits of arrears of wages. An interim order was granted on 1.1.91 by admitting this application that the respondents may consider engaging the applicants as casual labourers, if vacancies are available in any of their offices under them and in preference to their juniors and outsiders.

2. The respondents in their reply stated since there was no job requirement and the project at Agra has got completed, the applicants were discharged with one month's notice. The Railway Electrification Project of Department of Tele-  
(DOT)  
communications is engaged in projects which are of a purely temporary nature in every respect. The work involved is of shifting or re-aligning of lines, pursuant to electrification of railway tracks. These works are taken up by DOT only against firm demand placed by Railway Authorities. The extent of the work as well as the programme of execution of work of any such project is totally dependent and dictated by the Department of Railways. In view of this fact the project sites are at remote and far-flung places and requirement of number of labourers also keeps fluctuating depending upon the main electrification work of the railways. In view of this fact the applicants were engaged locally by

Asstt. Engineer (R.E.), Agra for project of <sup>purely</sup> temporary nature in every respect. The notice was served on all the casual labourers except 8 senior-most who were required to be retained for guarding and winding up works like disposal of stores etc. The notice was served on the applicants which they refused to accept. In view of these facts there is no question of regularisation of the applicants and the judgement referred to Hon'ble Supreme Court do not help the applicants for continuation in job where there is no job available for them. The respondents have also denied that any fresh recruitment has been made in Agra Division and have stated that as and when new work comes up in Agra territorial division, only retrenched mazdoors will be engaged strictly according to their seniority. The respondents have also denied that persons junior to the applicants have been retained. The engagement and seniority of casual mazdoors is on the divisional level.

3. We have also gone through the rejoinder filed by the applicants where they have reiterated their stand taken in the O.A. The applicants have also referred to certain vacancy position at Bharatpur Project, Khuruja Project, Agra Project, Modi Nagar Project and Dadri NTPC Project.

4. Since none of the parties is present or <sup>representative</sup> through their counsel, we are disposing of this application on the basis of material available on record. Though there cannot be 2 opinions for the fact that Hon'ble Supreme Court has in a <sup>catena</sup> of decision regarding casual labour particularly in

8

P & T Department issued certain directions and in view of this fact, the DOT has issued a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This scheme has come into effect from 1.10.89. The applicants as annexure to their application in the case of Shri Vishnu Dutt has given an account of the number of days during which he has worked. In the year 1989 from January to December and in the year 1990 from January to June the applicant has worked for 427 days. Similarly Applicant No.2 Pawan Kumar Chaudhri since November, 1988 till June 1990 at different spells has worked for 568 days. The scheme referred to above lays down that temporary status would be granted on all the casual labourers currently employed who have worked for 240 days in a year. The grant of temporary status would entitle the casual labourers to certain benefits detailed in the scheme i.e. minimum of the pay scale of regular Group 'D' official including D.A., H.R.A. and C.C.A., benefit of increments in the pay scale, leave entitlement etc. However, this scheme refers to the engagement of casual labourers who were on employment on 30.3.85 subject to satisfying other conditions.

5. On merit we find that the applicants have no case with regard to continuance in service or for back wages. But at the same time as stated by the respondents in their reply, they have to prefer if a project is undertaken and there is necessity of engagement of casual labourers in preference to fresher. However, it does not mean that those who have got

the benefit of scheme of 1989 will not be given preference. After giving benefit to those who were in position on 30.3.85 and are covered by the scheme of 1989 referred to above, the case of the applicants needs to be considered on humanitarian grounds as they had already worked with the respondents in a particular project for more than 240 days.

6. There are still certain steps to be taken by the respondents whether the applicants are not covered by the scheme of regularisation of casual labourers/DRM on the basis of the scheme of October, 1989. The cutt off date prescribed is 30.3.85 but at the same time the engagement of the fresh casual labour was not stopped and they continued when the scheme came into force. The respondents are therefore to consider whether the applicants can also be considered in the said scheme.

7. The application therefore is dismissed with regard to relief claimed by the applicants but with the observation that the respondents shall consider the case of the applicants for fresh engagement as and when necessity arises and there is job requirement in the division and also consider in the regularisation scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of the Department of Telecommunications, 1989. The application is disposed of accordingly.

*Myself*  
(S.R. ADIGE)  
Member(A)

*J. P. Sharma*  
(J.P. SHARMA)  
Member(J)