

(X)

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

O.A. NO. 421/90

DATE OF DECISION : 19-12-91

Shri Virender Singh

... Applicant

Vs.

Union of India & Ors.

... Respondents

Mrs. Rani Chhabra, Counsel for the Applicant

Shri P. P. Khurana, Counsel for the Respondents

CORAM : HON'BLE SHRI P. K. KARTHA, VICE CHAIRMAN (J)

HON'BLE SHRI B. N. DHOUNDIYAL, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the
2. To be referred to the Reporters or not? *yes* Judgement? *yes*

J U D G M E N T

(By Shri B. N. Dhoundiyal) :

This OA has been filed by Shri Virender Singh, challenging the notice issued by the Department of Telecommunication dated 19.2.1990 informing him that his services shall be terminated w.e.f. 20.3.1990 (Annexure-B).

2. The applicant has stated that he has worked for 680 days in the Telephone Exchange, Meerut as a Casual Labourer for digging and laying lines. According to him the Project under which he was working is still continuing and the present strength of workers is quite inadequate to meet the growing volume of work. Nevertheless, the Department has retrenched all the employees who were recruited after 31.3.1985, in accordance with the directions given in circular No. 270/6/84 dated 22.4.1987, issued by the Ministry of Telecommunication. He has also alleged that work is being given to the contractors who engage labour for the same work but pay them only Rs.15/- or so against Rs.29.50 per day, paid by the Department. The applicant has alleged that his retrenchment is illegal and arbitrary, and has prayed for quashing of the circular No.270/6/84 dated 22.4.1987

Bv

and the notice of termination dated 19.2.1990 and for the respondents being directed to regularise him in a suitable post.

3. An interim order was passed by this Tribunal on 19.3.1990 restraining the respondents from terminating the services of the applicant which was extended from time to time. The services of the applicant ~~were~~ finally terminated on 1.10.1990 in the absence of any Stay Order as, in the meanwhile, the application stood dismissed on default for some time.

4. The respondents have contended that the applicant was only a Casual Labourer and not in the employment of the Central Government. He was issued one month's notice as there was no further work available. Such extra hands are engaged for limited period only and their services are terminated as soon as the work is completed. The respondents cannot be compelled to engage the Casual Labourer even where there is no work to occupy them. They have, however, admitted that the applicant had worked for 287 days in 1988, for 362 days in 1989 and 271 days in 1990, i.e., a total of 920 days.

5. We have gone through the facts of the case and have heard the learned counsel for both the parties. The following issues have already been settled in the cases already decided by the Supreme Court and this Tribunal :

- (i) This Tribunal has jurisdiction to entertain the cases of Casual Labour/daily wager under Section 19 of the Administrative Tribunals Act, 1985, (Judgment of the Full Bench of the Tribunal - Rahamathullah Khan Vs. U.O.I. & Ors. : 1989(2)SLJ 293 CAT).

- (ii) The State cannot deny to the Casual Labourers atleast the minimum pay scales of regularly employed workmen, even though the Government may not be compelled to extend all the benefits enjoyed by the regularly recruited employees. A scheme was prepared by the Post and Telegraph Department on the directions of the Supreme Court for absorbing the Casual Labourers as 'Casual Labourers (Group of Temporary Status for Regularisation)'. (Bhartiya Dak Tar Mazdoor Manch vs. U.O.I. & Ors. : AIR 1987 SC 2342).
- (iii) The employees of Post and Telegraph Department are workmen within the meaning of Industrial Disputes Act, 1947 (Kunjan Bhaskaran vs. Special Divisional Officer Telegraphs, Chananassery, 1983 Lab.IC 135). The administrative decision to retrench all those who were employed after 1.4.1985 was not legally sustainable (decision dated 4.5.1988 in OA 529/88, Kunjanlal & Ors. vs. U.O.I. & Ors.).

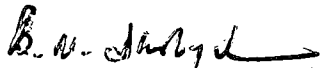
6. In the light of the above, another Bench of this Tribunal of which one of us (Shri P. K. Kartha) was a party, gave a decision on a batch of 10 applications on 18.5.1990 (Hari Shankar Swamy & Ors. Vs. U.O.I. & Ors. : 1990 Supp.SCC 668), holding that the action of the respondents to give the benefit of regularisation scheme only to those employees who were engaged before 1.4.1985 was not legally sustainable.

7. The respondents have themselves admitted that the applicant has worked for more than one year. Following the ratio of above the ^{numbered} ~~abovenumbered~~ judgments we hold that the applicant is entitled to succeed. The application is, therefore, disposed of with the following directions and orders :-

DN

- (1) We set aside and quash the impugned Notice No.E-A/GM/66 dated 19.2.1990 terminating the services of the applicant w.e.f. 20.3.1990 and the order dated 1.10.1990. The respondents are directed to reinstate the applicant in service within the period of three months from the date of communication of this order.
- (ii) After reinstating him, the respondents shall consider regularising the applicant in accordance with the scheme prepared by them. Till such regularisation, he shall be paid minimum pay in the pay scale of regularly employed workmen and shall be entitled to the benefits and privileges envisaged in the judgment of the Supreme Court in Jagrit Mazdoor Union's case, ~~as mentioned above.~~ ^{dw} (1989(2) SCALE 1455) ^{dw}
- (iii) In the facts and circumstances of the case, we do not direct payment of any back wages to the applicant.

There will be no order as to costs.


(B. N. DHOUNDIYAL) 19/12/91
MEMBER (A)


19/12/91
(P. K. KARTHA)
VICE CHAIRMAN (J)