

In the Central Administrative Tribunal
Principal Bench, New Delhi.

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Reon. Nos.

Date: 15.11.1991.

1. OA-2370/89
2. OA- 248/90
3. OA- 502/90
4. OA-694/90

1. Shri Gopal Sharma
 2. Shri Bhaskar Prasad & Anr.
 3. Shri Amar Lal
 4. Shri Bhawani Prasad & Ors.
- } Applicants

Versus

Union of India through the
Secy., Ministry of Communica-
tions & Others

.... Respondents

For the applicants

.... Smt. Rani Chhabra, Counse

For respondents in 2,3,&4

.... Shri P.P. Khurana, Counse

For respondents in 1

.... Shri M.L. Verma, Counsel

Coram: Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)
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*

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

In these applications filed under Section 19 of
the Administrative Tribunals Act, 1985, common questions
of fact and law have been raised and it is proposed to
deal with them in a common judgement. The applicant in
OA-2370/89 has worked as a Casual Driver. The applicants
in the other three applications have worked as casual
labourers. The periods of service rendered by the

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applicants have been mentioned in the applications.

One common feature in these applications is that

admittedly, all the applicants have worked for more

than 240 days as casual labourers. The period of service

ranges from 1985 to 1988. Another common feature is that

they were engaged as casual labourers after 30.3.1985.

2. The applicants in OA-2370/89, OA-502/90, and

OA-694/90 have been continuing in service on the basis of

the stay orders passed by the Tribunal. In regard to the

applicants in OA-248/90, the Tribunal has passed an

interim order directing the respondents to consider

their engagement in case they are to recruit more persons

for similar jobs.

3. The respondents issued a circular letter on

22.4.1987 directing all departments of the Telecommunications

to retrench all the casual workers who were recruited after

31.3.1985. This has been challenged in the present

proceedings before us.

4. The applicants are seeking regularisation of their

services and regular pay-scales as in the case of regular

employees. These are being opposed by the respondents on

the ground that there is no work to accommodate the

applicants and absorb them in regular posts, and that

they are not covered by the scheme prepared by the

or

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respondents for regularising casual labourers entitled "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunications, 1989".

5. We have carefully gone through the records of these cases and have considered the rival contentions.

6. In the leading case of Daily-rated casual labour employed under the P & T Department Vs. Union of India & Others, A.I.R. 1987, S.C. 2342, the Supreme Court held that the State cannot deny to the casual labourers at least the minimum pay in the pay-scales of regularly employed workmen even though the Government may not be compelled to extend all the benefits enjoyed by regularly recruited employees. The Supreme Court noted that many of the casual labourers in the P & T Department had not been regularly recruited but that many of them have been working continuously for more than one year with the department. They were rendering the same kind of service which was being rendered by the regular employees doing the same type of work. The Supreme Court observed that this practice amounts to exploitation of labour. The Supreme Court referred to its earlier decision in Dhirendra Chamoli Vs. State of U.P. 1986 (1) SCC 637, wherein a similar view had been taken in respect of the

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... working in the Nehru Yuvak Kendras, who were
... to be performing the same duties as Class
... The Supreme Court, therefore, directed
... and other authorities to pay wages to
... who were employed as Casual labourers belonging
... casual categories of employees in the Postal and
... Department at the rates equivalent to the
... of the pay-scales of the regularly employed
... in the corresponding cadres, but without any
... The Supreme Court also directed the
... to prepare a scheme on a rational basis
... being as far as possible the casual labourers,
... been continuously working for more than one
... the Posts and Telegraphs Department,
... the scheme known as Casual Labourers (grant of
... status for regularisation) scheme has been
... and put into operation from 1.10.1989. A
... the same was placed for the consideration of
... me Court in Jagrit Mazdoor Union Vs.
... Telephone Nigam Ltd., 1989 (2) SCALE 1455.
... The Supreme Court found that the scheme was comprehensive
... from provision for conferment of temporary

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employees working in the Nehru Yuvak Kendras, who were considered to be performing the same duties as Class IV employees. The Supreme Court, therefore, directed

the Government and other authorities to pay wages to workers who were employed as Casual labourers belonging to the casual categories of employees in the Postal and Telegraphs Department at the rates equivalent to the

minimum of the pay-scales of the regularly employed workers in the corresponding cadres, but without any increments. The Supreme Court also directed the

authorities to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers, who have been continuously working for more than one year in the Posts and Telegraphs Department.

7. The scheme known as Casual Labourers (grant of temporary status for regularisation) scheme has been formulated and put into operation from 1.10.1989. A copy of the same was placed for the consideration of the Supreme Court in Jagrit Mazdoor Union Vs.

Mahanagar Telephone Nigam Ltd., 1989 (2) SCALE 1455.

The Supreme Court found that the scheme was comprehensive and apart from provision for conferment of temporary

status, it also specified the benefits available on conferment of such status. A similar scheme has also been prepared for the Postal employees working in the Department of Posts. In J.M. Union's case, the Supreme Court further observed that temporary status would be available to the casual labourers in the Postal Department on completion of one year of continuous service with at least 240 days of work (206 days in the case of offices observing 5 days' week) and on conferment of temporary status, the House Rent Allowance and City Compensation Allowance shall be admissible. After one year's of continuous service with temporary status, the casual labourers shall be treated at par with temporary Group 'D' employees of the Department of P & T and would, thereby be entitled to such benefits as are admissible to Group 'D' employees working on regular basis.

8. The judgement of the Supreme Court in the case of Daily Rated Casual Labour employed under the P & T Department was delivered on 27.10.1987. Subsequently, a Misc. Petition was filed in the Supreme Court (CWP No. 2351/88 in W.P. No. 302/86, The National Federation and Another Vs. Union of India and Others) wherein the Supreme Court passed an order on 26.9.1988 giving

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extension of time to the respondent to comply with the

order dated October, 1987 by six months. The Supreme

Court further directed as follows:-

"In the meantime, no employee in respect of whom

the order dated October, 1987 has been passed

by this Court, shall be discharged from service."

(emphatically added)

Following the decision of the Supreme Court in the

fore said case, the Tribunal has granted relief in numerous

cases. Reference may be made to the decision dated 4th May

1988 in OA-529/68 of the Principal Bench of this Tribunal

(Sunder Lal & Others Vs. Union of India & Others) delivered

by a Bench presided over by Shri K. Madhava Reddy, the then

Chairman. In that case, the 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 1.4.1985. There was also a direction to

fill up the resultant vacancies. The applicants had put in

nearly 3 years of service. In view of the leading decision

of the Supreme Court mentioned above, the Tribunal held that

the administrative decision to retrench all those who were

employed after 1.4.1985, was not legally sustainable. The

Tribunal quashed the impugned order of termination and

directed the respondents to reinstate the applicants with

immediate effect and to consider them for absorption in

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accordance with the scheme, which was under preparation.

10. In the light of the foregoing discussion, we are of the opinion that the applicants in these applications are entitled to succeed. All of them have worked for more than one year. The cut-off date fixed by the respondents in their circular letter dated 22.4.1987 regarding further

engagement of casual employees, is arbitrary and not legally sustainable. In this respect, we follow the decision of the Principal Bench of the Tribunal in Sunder Lal's case, mentioned above.

11. In the facts and circumstances, the applications are disposed of with the following orders and directions:-

(i) We hold that the applicants in these applications are entitled to temporary status in accordance with para.5(1) of the scheme prepared by the respondents for regularising casual labourers and granting temporary status to them. They shall be brought on to the permanent establishment, in accordance with the provisions of the scheme. We further hold that the services of the applicants shall not be terminated in the meanwhile.

(ii) Till the applicants are so regularised, they shall be paid the minimum pay in the pay-scale of regularly employed workmen in the 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's case, mentioned above.

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

(iv) The interim orders passed on 28.11.1989 in OA-2370/89, on 22.2.1990 in OA-248/90, on 27.3.1990 in OA-502/90, and on 23.4.90 in OA-694/90, are hereby made absolute.

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

Let a copy of this order be placed in all the four case files.

(B.N. Dhoundiyal) JS
Administrative Member

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