

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 864/90

Date of Decision: 19-12-91

Shri Rishipal Giri & Ors	VS.	APPLICANTS
Union of India & Ors.		Respondents.
Mrs. Rani Chhabra	-	Counsel for the applicants.
Shri P.P. Khurana	-	Counsel for the respondents.

CORAM:

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

The Hon'ble Mr. B.N. DHOUNDIYAL, MEMBER (A)

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 Shri B.N. Dhaundiyal, Member (A))

This O.A. has been filed under Section 19 of the Central Administrative Tribunal Act, 1985 by S/Shri Rishipal Giri, Vijay Kumar, Ajay Singh, Chanderpal, Rahem Illahi and Om Dutt, against the following orders issued by the Department of Telecommunications:-

- (a) Orders dated 16.4.90 issued to the applicants giving one month's notice of termination of their services.
- (b) Orders dated 7.11.89 and 14.12.89, whereby grant of temporary status has been extended to only those casual labourers who were engaged before 30.3.85.

2. All the applicants were recruited prior to 1985 and have been working as casual labourers under Sub Divisional Officer, Telegraph BARAUT and after a break in 1985-86 were again engaged from July 1986 to date. Their total service as stated in the counter affidavit is as under:-

1. Rishipal Giri - 1787 days.

*4w*

2. Vijay Kumar	= 1349 days
3. Chanderpal	= 1146 days
4. Rahem Illahi	= 1318 days
5. Om Dutt	= 1143 days

3. The applicants have stated that as the work has increased manifold in the Department of Telecommunication the existing sanctioned staff strength is quite inadequate. Casual labourers are deployed to do work similar to that of regular labourers but they are not made permanent. Artificial breaks are given to them to deny them the benefits of regularisation. Pursuant to the directions given by the Supreme Court in Bhartiya Dak Tar Mazdoor Manch Vs. U.O.I. & Ors AIR 1987 SC 2342, the Department of Telecommunication prepared a scheme for regularisation of casual labourers who have worked for more than one year and who were engaged prior to 30.3.85 would be given temporary status. The cut off date of 30.3.85 is arbitrary and illegal.

4. The respondents have stated that the applicants were engaged purely on casual basis and never worked continuously and the long breaks in their service cannot be condoned as the scheme permits such condonation upto six months breaks only. Thus the applicants were disengaged due to break of casual nature having been complied and thus not being eligible under the scheme for regularisation of casual labourer.

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 case already decided by the Supreme Court and this Tribunal:

(i) This tribunal has jurisdiction to entertain the cases of casual labourers/daily wager under Section 19 of the Administrative Tribunal Act, 1985 Judgement of the Full Bench of the Tribunal in Rahamathullah Khan Vs U.O.I. & Ors 1989(2)SCJ 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).

6. In our view, the cut off date of 30.3.85 is not based on any rational basis and is not legally tenable.

7. 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 18.5.90 (Hari Shankar Swamy & Ors. Vs. U.O.I. & Ors) 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.

8. The respondents have themselves admitted that the applicants have worked for more than three years. Following the ratio of the above mentioned Judgements, we hold that the applicants are entitled to succeed. The application is, therefore, disposed of with the following orders and directions:-

(i) We set aside and quash the impugned order

*bw* dated 16.4.90 terminating the services of the

(15)

applicants w.e.f. 16.5.90. The respondents are directed to reinstate the applicants in service within the period of 3 months from the date of communication of this order.

(ii) After reinstating them, the respondents shall consider regularising their services in accordance with the scheme prepared by them. Till such regularisation, they 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 Judgement of the Supreme Court, <sup>in</sup> In Jagrit Mazdoor Union's case, (1989(2) SCALE 1455).

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

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

*B.N. Dholiyal*  
(B.N. DHOUDIYAL) 19112191  
MEMBER(A)

*D.K. Kartha*  
15/12/91  
(P.K. KARTHA)  
VICE CHAIRMAN(J)