

(16)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. No.2985 of 1991

Dated New Delhi, this the 26th day of April, 1994

Hon'ble Mr Justice S. K. Dhaon, Vice Chairman (J)
Hon'ble Mr B. K. Singh, Member (A)

1. Shri Surinder Kumar
S/o Shri Raghunath
R/o H.No.8-11/282
Guru Nanak Pura
Near P.A.P. Line-6
Jalandhar-6
2. Shri Harpal
S/o Shri Bhagat Ram Dhiman
R/o Mistery House No.519
Street No.9, Dasmash Nagar
Gill Road
Ludhiana (Punjab)
3. Shri Nirmal Singh
S/o Balkar Singh
R/o Village Malikpur
P.O. Batala
Dist. Gurdaspur
4. Shri Kanail Singh
S/o Harbans Singh
R/o Village Chinna Rat Wala
P.O. Derri Wala Dazaga
Dist. Gurdaspur (Punjab)
5. Shri Ram Singh
S/o Raula Singh
R/o Village and P.O. Larpan
Tehsil Pail
Dist. Ludhiana (Punjab)
6. Shri Sukhdev Kumar
S/o Behari Lal
R/o V & Post Damunder
Dist. Jalandhar
7. Shri Sunil Kumar
S/o Barkha Ram
R/o Durgiana Colony
V&P.O. Badyal
Ambala

... Applicants

By Advocate: Mrs Rani Chhabra

VERSUS

1. Union of India
through its Secretary
Ministry of Communication
Department of Telecommunication
NEW DELHI
2. Secretary
Department of Telecommunication
Sanchar Bhawan
NEW DELHI
3. Junior Engineer
Coaxical Cable Const.
Jalandhar

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4. Asst. Engineer, Telegraphs
Coaxial Equipment Installation
Ludhiana
5. Asst. Engineer
Coaxial Equipment Installation
Jalandhar
6. Asst. Engineer
Coaxial Cable Construction
Ludhiana
7. Asst. Engineer
Coaxial Cable Project
Ambala Cantt. (Haryana)
8. Director Maintenance
Northern Telecom Region
W/B Microwave Building
Master Tara Singh Nagar
Jalandhar City
9. Chief General Manager
Northern Telecom Region
36, Janpath
Kidwai Bhawan
NEW DELHI
10. Divisional Engineer Telecom
62, Napier Road
Coaxial Maintenance
Ambala Cantt.

... Respondents

By Advocate: None present

O R D E R (Oral)

Mr Justice S. K. Dhaon, VC (J)

These are the 7 applicants before us in this O.A. They have come to this Tribunal with a prayer that the circular dated 22.4.87 may be quashed and the respondents may be directed to take the applicants back to work and absorb them permanently in the Department.

2. We may take up the case of applicant No.7, Shri Sunil Kumar, first. In the counter affidavit filed by Shri G.S. Bhusal, Assistant Engineer, Coaxial Maintenance, the material averments are these. The applicant, Sunil Kumar was engaged as a casual labour on daily wages basis in the respondent department w.e.f. 1.10.86. He stopped coming to the department in May 1988 and joined the Telecommunication Consultants India Ltd. (TCIL) without any information to the respondents. The applicant, Sunil Kumar, was never sent on deputation to TCIL by the respondents. He was engaged by the respondents as a casual labour

w.e.f. 1.10.86 till May 1988. He cannot lay his claim for reemployment with the respondents, Department of Telecommunication. The applicant worked from 13.5.88 to 13.2.90 with the TCIL which is a public sector undertaking.

3. No rejoinder having been filed by the said applicant, we have to accept that the averments made by the respondents are correct.

4. Since in the counter affidavit a categorical stand has been taken that this particular applicant was not sent on deputation to TCIL, nothing turns upon the fact that he worked in the TCIL from 13.5.88 to 13.2.90. We, therefore, come to the conclusion that his service in the TCIL does not entitle him to the benefit of the Casual Labourers (Grant of Temporary Status and Regulatisation) Scheme, 1989 of the Department of Telecom (hereinafter referred to as the Scheme) which came into force w.e.f. 1.10.89. He is, therefore not entitled to any relief.

5. Now we come to the cases of applicants No.1 to 6. We may immediately state that no counter affidavit has been filed by the respondents in respect of the said applicants 1 to 6. Therefore, we have no option but to proceed on the assumption that the averments made in the OA are correct.

6. The material averments made by them in this OA are these. The applicant No.1 was recruited as a casual labour in the Department of Telecommunication in September 1986. He was sent on deputation to the Telecommunication Consultants India Limited (TCIL) in April 1988. From TCIL he was sent to Saudi Arabia. By a letter dated 17.7.91 the TCIL repatriated the applicant to his parent department. The said letter indicated that he rendered regular service

in the TCIL w.e.f. 16.4.88, till 21.2.91. On return to parent department, he was assigned no work. The applicants 2 to 6 were recruited on different dates as casual workers in the Department of Telecommunication. They were sent to TCIL on deputation on different dates from where they were sent to Saudi Arabia by the TCIL. On return from Saudi Arabia, they were repatriated to their parent department by the TCIL. They were assigned no work on their reporting to the parent department.

5. Considering the cases of applicant No.1 to 6, it appears that they are entitled to the benefits of the scheme as they were employed in the Telecommunication Department on 1.10.89, the date on which the scheme came into force. The case of the applicants No.1 to 6 in this OA seems to be covered by the judgement of this Tribunal in the OA 1783/92, Karan Singh & Ors. Vs. Union of India & Ors decided on 16.8.93. In that case this

the Tribunal took a view that the service rendered by the applicant on daily wages basis, while on deputation with TCIL, should be taken into account for the purpose of the benefits of the said scheme, assuming that at the relevant time they were in the employment in the said department. This Tribunal further held that the service rendered by the applicant before 1988 with the TCIL shall be taken into account for the purpose of seniority as casual labourers in the department.

6. A somewhat similar controversy came before us in the case of Rishi Pal Singh Vs. Union of India, OA No. 1866/93 decided on 12.4.94. As in that case, we issued the following directions to the respondents in this case.

(i) The service rendered by the applicants No.1 to 6 with the TCIL shall be counted for deciding the seniority as casual labourers in the respondents department;

(ii) The names of the applicants No.1 to 6 should be included in the list prepared under the said scheme taking into account not only the service rendered by them to the office concerned but also rendered abroad to the TCIL;

(iii) The respondents shall include the names of the applicants in the relevant list for the purpose of giving benefit to them as a casual labour and grant of temporary status under the said scheme. The case of the applicants for regularisation of service shall be considered after reinstating them in service but without paying them any back wages;

(iv) The orders of reinstatement shall be passed within a period of 3 months from the date of receipt of a certified copy of this judgement.

7. With these observations, we dispose of this DA finally but without any order as to costs.

(B. K. Singh)
Member (A)

(S. K. Dham)
Vice Chairman (U)

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