

CENTRAL ADMINISTRATIVE TRIBUNAL

Principal Bench
New Delhi

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OA No.1616/92 Date of decision:20.9.1993.

Sh.Gaja Nand Suman & anr... Petitioners

vs.

Union of India through
Secretary,
Ministry of Communication,
Dept.t of Communication,
New Delhi & ors. .. Respondents

For the petitioners .. Ms.Bharti Sharma,
proxy for Mrs.Rani
Chhabra, counsel.

For the respondents .. Sh.P.H.Ramchandani,
Senior counsel
with Sh.J.C.Madan,
counsel.

CORAM:

THE HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN
THE HON'BLE MR.B.N.DHOUNDIYAL, MEMBER(A)

JUDGEMENT(ORAL)

(BY HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN)

The petitioners were employed
as casual workers in the Telecom department.
They came to this Tribunal with the principal
prayer that they should be given temporary
status in accordance with the "casual labourers(Grant of
Temporary Status and Regularisation) Scheme"
of the the Department of Telecommunication,
1989.

2 A counter-affidavit has been filed
on behalf of the respondents. Counsel for
the parties have been heard.

3. The position which has emerged
from the exchange of affidavits between
the parties is this. Petitioner No.1(Sh.Gaja
Nand Suman) was employed as a casual worker
in the ^{Telecom} Railway Electrification Project in
May, 1986 and that employment continued till
October, 1987. There was a break. He was
again employed from May, 1988 and that employment

continued till June 1990. Petitioner No.2 (Shri Dwarka Lal Baragi) was given employment as casual worker in the Telecom Railway Electrification Project in November, 1986 and he continued in that employment till October, 1987. There was a break. In May, 1988, he was again employed in the same capacity and that employment continued till June, 1990. The averments made in para A.6 of the OA is that the petitioners were retrenched from service by the respondents vide separate notices issued to them. In the said notices, it was stated that the services of the petitioners were being dispensed with merely because the work of the project was nearing completion. A true copy of the notice dated 26.5.1990 against petitioner No.1 is before us as Annexure A-V. A perusal of this document shows that the respondents themselves admitted the position that Shri Gaja Nand Suman was employed as casual worker in the AE Agra Railway Electrification unit from May, 1988 and his services were not required from June 1990. In the counter-affidavit the authenticity or genuineness of the documents at Annexures A-I to A-V has not been questioned. We are satisfied from the material on record that the petitioners have established that they have rendered 240 days of service with the respondents as casual workers in one particular year. They have also established that they were in the employment of the respondents on 1.10.1989, the date on which the aforesaid scheme was enforced.

(A)

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4. The petitioners having established that they rendered service for 240 year days in a particular/ and they were currently employed with the respondents on 1.10.1989, there can be no impediment in their being given status in accordance with the scheme.

5. Reliance is placed by the learned counsel appearing on behalf of the respondents on the circular dated 25.6.1993 issued by the Director(ST-I) in the Government of India, Ministry of Communications, Department of Telecommunications. This circular is addressed to all heads of Telecom.Circle/Metro Telecom Distt.etc. According to this circular, the benefit of the scheme of 1989 should be given to the casual workers who were engaged after 30.3.1985 and before 22.6.1988. Emphasise is laid on the words "it has now been decided". We have considered the said circular and we are satisfied that it has no application to the case of those casual workers who are otherwise entitled to the benefit of the scheme of 1989. Any other construction, of the circular, would lead to the result that the rights acquired under the scheme would be destroyed by the circular. That could not be the intention. According to us, the circular intends to confer fresh rights upon those who cannot get advantage of the scheme. Obviously, the object is to keep those casual workers, who are out of the scheme of 1989, at par with those who are within the scheme provided they fulfil the requirement as contained in the scheme.

(9)

6. This OA succeeds and is allowed in part. The respondents are directed to grant temporary status to the petitioners. They shall offer employment to the petitioners as and when vacancies occur.

7. With these directions, this OA is disposed of finally. There shall be no order as to costs.

B.N.Dhundiyal
(B.N.DHOUNDIYAL)

MEMBER(A)

S.K.Dhaon
(S.K.DHAON)
VICE-CHAIRMAN(J)

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