

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

18

O.A. NO. 1783/92

DECIDED ON : 16-8-93

Karan Singh & Ors.

... Applicants

Vs.

Union of India & Ors.

... Respondents

CORAM :

THE HON'BLE MR. JUSTICE S. K. DHAN, V.C. (J)

THE HON'BLE MR. B. N. DHOUDIYAL, MEMBER (A)

Mrs. Rani Chhabra, Counsel for Applicants

Shri M. L. Varma, Counsel for Respondents

J U D G M E N T

Hon'ble Mr. B. N. Dhoundiyal, Member (A) —

This application has been filed by six applicants, namely, S/Shri Karan Singh, Kawal Singh, Bodh Raj, Tarsen Lal, Balbir Singh and Madan Lal, who are aggrieved by the refusal of the respondents to re-engage them after their return from Telecommunications Consultants India Ltd. (for short TCIL) where they had been on deputation from July, 1988 onwards. All the applicants claim to have worked between 1986 and 1988 continuously with the respondents and thereafter for nearly two years with the TCIL, a departmental undertaking under the Ministry of Communication. They claim to have been sponsored for deputation to the TCIL by the respondents and repatriated by the TCIL in 1990 to the respondents. In pursuance of the directions of the Supreme Court, a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme has come in force w.e.f. 1.10.1989. However, the applicants have been denied the benefit of this scheme on the ground that they were recruited after 30.3.1985 and that the circular dated 22.4.1987 directs retrenchment of all the casual

19

labours recruited after that period. They have also been ^{by} denied the benefit of circular dated 14.1.1988 which says ^{for} the casual labours being sent on deputation, the same benefit regarding continuance of service and regularisation etc. ^{by} as would be extended to them as are made available to other regular workers. The respondents have averred that these labourers were engaged for specific work, i.e., laying underground cable for extension of the telephone exchange from 3000 lines to 4000 lines. Their services were no longer required with the completion of the above work. They have indicated that though the applicants did work for them intermittently between the years 1986 and 1988, none of them has worked continuously and regularly for 240 days in a calendar year which is the minimum requirement under the Scheme. ^A ^{by} ~~The~~ bonafide mistake was committed by SDO Telephones, Pathankot, in issuing letter relieving the applicants for the assignment which was rectified later. As they were relieved for ICIL under a bonafide mistake they are not entitled to derive the benefit of previous experience.

2. We have gone through the records of the case and heard the learned counsel for the parties. In their order dated 17.4.1990 in writ Petition No. 1280/88, the Supreme Court had given the following directions :-

"We accordingly direct that the respondents shall prepare a scheme on a rational basis for absorbing as far as practicable the casual labourers including the petitioners who have continuously worked for more than one year in the Telcom Department..."

3. The learned counsel for the respondents has drawn our attention to the judgment dated 15.1.1993 by the Chandigarh Bench of this Tribunal in which the question of taking into account the service rendered by the casual workers with the

TCIL was considered. The Bench agreed with the contention of the learned counsel for the respondents in that case that there was no material on record to establish that the applicants had been sent on deputation or on a foreign assignment and that as such no right rests with the applicants to get employed as daily rated casual mazdoor and there is no obligation on the respondents to permit the applicants to resume duty. It was also mentioned that since the applicants had not asked for regularisation, the instructions contained in the circular dated 14.1.1988 are of little avail.

4. These cases are distunigishable as the applicants have sought a specific relief for absorption permanently as per directions of the Supreme Court. We find from the records that not only were the applicants relieved for assignment with the TCIL but after completion of their assignment, they were repatriated to the respondents' office in 1990. The following provisions have been made in the circular dated 14.1.1988 :-

- i) The casual Mazdoors crafted from the Deptt. of Telecom and serving in TCIL will, for all purposes like regularisation and other benefits be treated on par with the casual mazdoors serving in the Deptt. of Telecom.
- ii) The service rendered in TCIL by such casual mazdoors will be counted for the purpose of deciding their seniority as casual mazdoors in the department.
- iii) The concerned parent units of the Deptt. of Telecom will consider these casual mazdoors sent from their units and working in TCIL, as and when their turn comes for regularisation. TCIL on its part would ensure full implementation of such orders with regard to wages and other benefits extended to the regular employees of the Department."

(M)

5. In the facts and circumstances of the case, we hold that the applicants are entitled to benefit from the provisions of the circular dated 14.1.1988 and their services rendered with the ICIL have to be counted for the purpose of deciding their seniority as casual labourers in the Department. We, therefore, direct the respondents to include the names of the applicants in the list prepared under the said scheme taking into account not only the service rendered by them with respondent No.2 but also that rendered abroad with the ICIL. These orders shall be implemented by the respondents within two months from the date of communication. No orders as to costs.

B. N. Shoundiyal
(B. N. Shoundiyal) 14/6/93
Member (A)

S. K. Dhaon
(S. K. Dhaon)
Vice Chairman (J)