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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 1866/93

New Delhi this the 12th day of April, 1994.

Shri Justice S.K. Dhaon, Vice Chairman(J).

Shri B.K. Singh, Member(A).

Rishipal Singh,
S/o Shri Nanak Singh,
R/o 1128, Paharganj,
New Delhi.

... Petitioner.

By Advocate Ms Bharti Sharma, proxy for Ms Rani Chhabra.

1. Union of India
through its Secretary,
Ministry of Communications,
Department of Telecommunications,
New Delhi.

2. Assistant Engineer,
Coaxical Project,
Equipment Installation,
Muzzaffarnagar. ... Respondents.

None for the respondents.

ORDER(Oral)

Shri Justice S.K. Dhaon.

On 9.9.1993, this Tribunal directed the issue of notices to the respondents who are two in number. On 29.10.1993, Respondent No. 1 stood served but Respondent No. 2 was not served. The Bench, therefore, directed that the matter should be listed before the Deputy Registrar on 4.11.1993 for completion of pleadings. On 4.11.1993, fresh notices were directed to be sent to the unserved respondents. On 15.12.1993, service on Respondent No. 2 was still awaited. On 28.1.1994, the Deputy Registrar noted that Respondent No. 2 has been served twice. She, therefore, passed an order that the case may be listed for scrutiny on 1.2.1994. On that date, she noted that no one had appeared on behalf of the respondents and that the case may be listed for scrutiny on 28.2.1994. On 28.2.1994, she noted that in spite of many opportunities, no counter has been filed on behalf of the respondents and no one has appeared on their behalf. She, therefore, directed that the matter may be listed before the Bench

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for further directions on 8.3.1994. On 8.3.1994, the Bench passed an order that since the O.A. is not being opposed, list it for final hearing on 11.4.1994. That is how the matter has been listed today for final hearing.

2. This case has been called out in the revised list but no one / appeared on behalf of the respondents. In the absence of the counter affidavit we have no option but to proceed on the assumption that the averments made in the O.A. are true.

3. The material averments are these. The applicant was deputed as a casual labourer in the Department of Telecom in April, 1987 (copy of the muster roll maintained by the respondents has been filed as Annexure-I) and was assigned work under the Assistant Engineer, Coaxical Project, Equipment Installation, Muzzaffarnagar. His name was also entered in the muster roll. In November, 1987, he was sent on deputation to TCIL. He performed the same job which he was performing in the parent unit. There, he rendered service from November, 1987 to December, 1991. He worked on deputation till 10.12.1991 and was repatriated vide letter dated 2.7.1992 issued by the General Manager and addressed to the Assistant Engineer (Coaxical), Project Equipment Installation, Muzzaffarnagar. The applicant was directed to report for duty at Muzzaffarnagar. The applicant approached the relevant authority on several occasions but no work was assigned to him presumably in pursuance of the policy adopted by the respondents/department dated 22.4.1987. He approached this Tribunal by way of an impleadment application, M.P. No. 2298/92 in O.A. No. 1779/92. This O.A. was filed

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by a casual worker who was similarly situate as the applicant. On the said application, on 7.8.1992, the Tribunal issued notice and also directed the respondent to consider engaging the applicant if vacancy exists in preference to juniors and outsiders. However, on 16.4.1993, this Tribunal rejected the application made by the applicant on the ground of maintainability.

4. The prayer made in this case is that the respondents should be directed to reinstate the applicant in service and also consider his case for regularisation in accordance with the scheme in the telecom department.

5. Before entering into merits, we may record a finding that in the facts and circumstances of this case, the delay, if any, should be condoned. We have already indicated that the applicant was diligently and bonafide pursuing his application as one of the applicants in O.A. No. 1779/92 filed in the year 1992 by some other similarly situate person. His Misc. Petition was dismissed on 16.4.1993. Thereafter, it appears that this O.A. was presented.

6. On merits, we have on record the letter dated 14.1.1988 issued by Shri Raparthasarthy, Director (ST) (Annexure A-IV). The subject of this letter was "Safeguarding the interests of the casual mazdoors already working in TCIL, New Delhi and drafted from the Deptt. of Telecom. The substance of this communication is that the casual mazdoors drafted from the Department of Telecom and serving in TCIL will, for the purposes like regularisation and other benefits be treated on par with the casual mazdoors serving in the deptt. of Telecom.

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7. In O.A. No. 1783/92, this Tribunal on 16.8.1993 took the view that the applicants who were similarly situate as the applicant in this case are entitled to the benefit of the contents of the circular dated 14.1.1988 and their services rendered with the TCIL have to be counted for the purposes of deciding their seniority as casual labourers in the Department. The decision given by the Tribunal was that the name of the applicants 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.

8. We see no reason as to why the applicant should not be given an order similar to the one passed in O.A. No. 1783/92. We, therefore, direct the respondents to include the name of the applicant in the relevant list for the purpose of giving benefit to him as a casual labour and grant of temporary status under the said scheme. The respondents shall give full benefit of the aforesaid circular dated 14.1.1988. Since we are directing the respondents to consider the case of the petitioner for regularisation in service, we have to necessarily direct them to reinstate him in service but without any payment of backwages. The order of reinstatement shall be passed within a period of three months from ^{the} /date of receipt of a certified copy of the judgement.

9. With these directions, this O.A. is disposed of finally but without any order as to costs.

(B.K. Singh)
Member(A)

'SRD'

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