

V
CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1070/1993

New Delhi: this the 11th day of December, 1998. (10)

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. All India P & T Industrial Workers Union, through its Secretary, Shri Pal Singh S/o Shri Kumar Pal Singh, Secretary, Netaji Nagar, New Delhi-23.
2. Shri Pal Singh S/o Sh. Kumar Pal Singh, Secretary, P & T Industrial Workers Union, P/O CTS, Neta Ji Nagar, New Delhi. Applicants.

(By Advocate: Shri V.P. Sharma)

Versus

1. Union of India through The Secretary, Ministry of Communication, New Delhi.
2. The Director General, Deptt. of Telecom, Sanchar Bhawan, New Delhi.
3. The Controller of Telecom Stores, Deptt. of Telecommunications, New Delhi.
4. The Asstt. Director General (T) Deptt. of Telecom, Sanchar Bhawan, New Delhi. Respondents.

(By Advocate: Shri K.C.D. Gangwani)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicants who are the All India P & T Industrial Workers Union through its Secretary and one other, impugn respondents' order dated 23.4.93 (Annexure-A/1) rejecting their prayer

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for conversion of industrial staff to regular establishment. (11)

2. Applicants contend that in the P & T Deptt., there are two categories of employees namely those who are Industrial Workers, and those borne on the regular establishment and the two categories have different service conditions and benefits, regarding working hours; lunch period; earned leave and other types of leave; mode of attendance; time bound promotions; dress; selection grade etc. They state that their several representations for conversion to regular establishment not having met with the desired results, they filed OA No. 966/92 which was disposed of with a direction to respondents to take a decision on their demand, within 4 months from 8.7.92 but as respondents did not take action within that period they filed a COP upon which respondents handed over to them a copy of their impugned decision dated 23.4.93. Applicants state that the only reason given in the impugned order dated 23.4.93 for rejection of their claim to come into the regular establishment is the additional financial burden involved, but this, they contend is not a valid ground for rejection of their claim.

3. We have heard applicants' counsel Shri V.P. Sharma and respondents' counsel Shri Gangwani.

4. Shri Sharma has reiterated the grounds taken in the OA and relied upon a Delhi High Court's decision dated 2.12.91 in CW No. 349/91 Ex. Constable Sadhu Ram Vs. UOI & Ors. in which it has been held

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that the plea of financial implication could not be advanced to defeat the just and legal claims of a litigant.

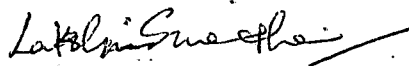
5. Shri Gangwani on the other hand has drawn attention to the contents of respondents' reply and pointed out that the OA has been filed by only one of the Unions of Industrial Staff, and does not represent all the members and all the Branches of the Union working at different places located under different Controllers of Telecom. Stores/ AECT DS. He states that all other Industrial Unions except the present one, are not in favour of conversion to regular staff, as Industrial Staff got various benefits denied to others, and if the Industrial Staff is converted into regular staff the Unions may go in for litigation. It is further stated that the Tribunal had dropped the CP by order dated 23.4.93 after perusing respondents' order of even date, holding that nothing further survived, and hence the matter could not be reagitated.


6. We have considered the matter carefully.

7. Applicants themselves admit in their OA that the P & T Deptt. consists of 2 broad categories viz. Industrial Workers and those borne on the regular establishment. Applicants belong to the category of Industrial Workers and are governed by the terms and conditions of service applicable to Industrial Workers. Those classified as Industrial Workers conform to certain specific characteristics which is separate and distinguishable from those borne on the regular establishment. Such a classification is

entirely reasonable, and has a rational nexus with the object sought to be achieved. Hence applicants have no legally enforceable right to compel respondents to take them onto regular establishment, which is a policy decision within the exclusive jurisdiction of the Executive authorities, to be taken in the background of its financial implication and the surrounding facts and circumstances. The Delhi High Court in Sadhu Ram's case (supra) therefore does not advance the applicants' case.

8. The DA is therefore dismissed. No costs.


(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)


(S. R. ADIGE)
VICE CHAIRMAN (A).

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