

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 26th day of February 1997.

Original Application no. 1069 of 1995.

Hon'ble Dr. R.K. Saxena, Judicial Member

Hon'ble Mr. S. Dayal, Administrative Member.

Babu Lal Premi, S/o Sri K.C. Prasad, R/o Village Pakhopur,
Post Office Kanwar, Paragana Mahuvari, Distt. Varanasi.

... Applicant.

C/A Sri N. Singh
S. Singh

Versus

1. Assistant Engineer, Telegraphs, Electrical Maintenance,
Mugal Sarai, Varanasi.
2. General Manager, Telecommunication, Varanasi.
3. Union of India, through Secretary,
Ministry of Telecommunications, (Post and Telegraph)
Sanchar Bhawan, New Delhi.

... Respondents

C/R Sri A. Sthelekar

O R D E R

Hon'ble Mr. S. Dayal, Member-A.

This is an application under section 19 of the
Administrative Tribunals Act, 1985.

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The applicant has made this application to seek the relief by way of a direction to the respondents to reinstate and continue the service of the applicant as a regular employee on the post of casual labourer.

The facts of the case are that the applicant was appointed as a casual labourer in the office of Junior Engineer, Cable, (Electrical Maintenance) Mughalsarai on 1.7.80 after calling for names from the Employment Exchange. The Respondents in their counter reply have denied appointment but admitted engagement of the applicant as a casual labourer. The extract from the Service Book annexed as Annexure I uses the word date of appointment which is shown as 1.7.80 in the Annexure. It is admitted by the Respondents that the applicant's claim that he worked for 973 days from 1.7.80 to 31.8.83 but they state that there is no proof that the services were satisfactory as claimed by the applicant. The applicant claims that he contacted leprosy at the beginning of 1984 and was under treatment with Medical Officer in charge, Leprosy Control Unit, Sakaldiha Varanasi till 6.2.90. The respondents state in their counter reply that the applicant did not inform them about his illness. The applicant claims that he again developed some complications and remained under treatment and that he was certified as fully fit on 21.6.95. The respondents have stated that the applicant informed about these facts for the first time in his representation dated 22.6.95. He claims to have met Respondent No. 1 but the Respondents have denied it in their reply as the office with the post had been abolished.

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The arguments of Sri Sanjeev Singh, learned counsel for the applicant and of Sri A. Sthekar, learned counsel for the respondents were heard.

It is clear from the pleadings of the case that the applicant left his work voluntarily on 1.1.84. Although he claims that he had orally informed the office while going out for treatment, he gives this information only in rejoinder reply and the Original Application does not have a whisper of this. The applicant does not mention why he did not inform in writing. He leaves it quite vague as to who in the office was informed about his treatment. Annexure 3 to the OA is a certificate from the Medical Officer Incharge, Leprosy Control Unit, Sakaldihā Varanasi that he was under his treatment from September 86 to December 88. Annexure 4 is a certificate from Incharge Medical Officer, Primary Health Centre, Chaharia, Varanasi that he was under his treatment from December 1988 to February, 1995. Thus his period from 1.1.84 to August, 1986 remains unexplained and it is clear that he had left his job voluntarily without any intimation to the employer.

The respondents have contested the claim made by the applicant for reengagement and regularisation of the applicant on two more grounds. The first is that the office of Electrification Maintenance Sub Division has been abolished and merged in Mughalsarai Railway Telecom. The second is that there is a ban on engagement of casual labourer after 30.3.85.

The respondents have raised the question of limitatio

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in this case. The respondents have admitted that the applicant was engaged on work of casual nature. It is not their case that they ever took any action by way of removal or dismissal against the applicant. In such a situation, applicant's claim for being considered for engagement on work of casual nature would revive every time a labourer was to be engaged by Telecom Department for work of casual nature like waterman in Summer or any other contingency paid job in the office for which fresh engagement is to be done. Therefore the claim of the applicant for casual labourer's job would not be barred by limitation.

The applicant has fought a dreaded disease and has regained health. His claim for engagement on work of casual nature for which fresh engagement becomes necessary and for which he is eligible by virtue of his qualification and experience should be considered and if he is found medically fit at that time, his engagement can not be denied. Such a claim would exist against the officers of Telecommunication Department located at Mughalsarai. The applicant's counsel has cited the case of Ghaziabad Development Authority and others versus Vikram Chowdhary and others, 1995 (3) AWC page 21596 in his favour. The ratio of the case is applicable to this case

We, therefore, direct the respondents to consider the claim of the applicant for engagement on any full time or part time work of casual labourer for which the applicant is eligible and for which fresh engagement is resorted to in an office of Telecom Department in Ghaziabad under control and

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supervision of General Manager, Telecom, Varanasi.

There shall be no order as to costs.

Sd/-
A.M.

Sd/-
J.M.

Compaired
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