

No.
Ch. Regularisation of
Service.

9

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 665 of 1987
~~XXXXXX~~

DATE OF DECISION 19.8.1991

Shri Labhu Shamji Gohil Petitioner

Shri V.S. Mehta Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri P.M. Raval Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh

: Member (A)

The Hon'ble Mr. R.C. Bhatt

: Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

Shri Labhu Shamji Gohil,
C/O. H.A. Raichura,
Advocate,
Danapith,
JUNAGADH -362 001.

: APPLICANT

(Advocate: Mr.V.S.Mehta)

VS.

1. Union of Iddia, through
The Secretary,
Communication Ministry,
Government of India,
NEW DELHI.
2. The Sub-Divisional Engineer,
Phones,
Telephone Exchange,
VERAVAL.
3. Divisional Engineer,
Phones,
through, Divisional Engineer,
Telegraphs,
JUNAGADH.

: RESPONDENTS

(Advocate: Mr.P.M.Raval)

CORAM : Hon'ble Mr. M.M.Singh

: Member (A)

Hon'ble Mr. R.C.Bhatt

: Member (J)

O R A L - J U D G E M E N T

O.A. No. 665 of 1987

Date : 19.8.1991

Per : Hon'ble Mr. M.M. Singh

: Member (A)

In this original application under Section 19 of the Administrative Tribunals Act 1985, the applicant a daily wager Casual Labourer of Telephone Exchange, Veraval, has raised the grievance that though he is working as daily wager with effect from December 1982 he has not been regularised, whereas similarly placed persons junior to him, whose names he has given in the application have been regularised, hence this application with relief to direct the respondents to regularise the services of the applicant and to confirm him as permanent employee. The second relief against termination is not pressed.

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(9)

2. We have heard Mr. V.S. Mehta learned counsel for the applicant and Mr. E.A. Samuel learned counsel for Mr. P.M. Raval learned counsel for the respondents. We have perused the records also.

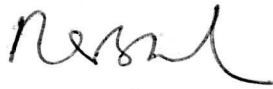
3. The fact that the applicant has been working as daily wager with effect from December 1982 has not been disputed in the reply of the respondents. It is averred in the reply that recruitment for regular mazdoor was undertaken by T.D.E., Amreli, calling applications and after written and oral test, and that the applicant did not apply for the said post and therefore he came to be left out, in view of which there is notⁿ merit in the contentions of the applicant. It is also denied that in view of the duration of the services of the applicant as shown on the annexures of the application, the applicant ought to have been absorbed as permanent employee and his services should be confirmed, and that the applicant should be paid regularised wages as per pay scale applicable to other persons who have been confirmed in the service.

4. The respondents have not disclosed what scheme of regularisation of casual labourers is being followed by them. The casual labourers are required to be regularised on the basis of Seniority as Casual Labourers if they are eligible for regularisation and also absorption against vacancies in accordance with such seniority. The issue of calling application for appointment as regular mazdoor is in our view selfⁿ admission to the fact that the respondents are not exhausting the seniority list of the casual labourers for purpose of their appointment as regular mazdoor. No Rules are shown to us to support the averment that instead of seniority list of casual labourers for appointment as regular mazdoor, the respondents are free to invite applications for regular mazdoor. In view of this the respondents contentions in their reply has no basis and merit.

M. n. d.

5. In view of the above, we direct that the applicant shall be considered for regularisation in accordance with his seniority as casual labourer. If otherwise qualified within a period of three months of the date of issue of this order. We also direct that, in case Rules for appointment of regular mazdoor have any maximum age rules, the same shall not be invoked against the applicant's regularisation, if otherwise fully qualified from the date he became due for consideration for such regularisation on the basis of seniority list of casual labourer.

6. The application is disposed of by our above orders. There are no orders as to costs.



(R.C.BHATT)
Member (J)



(M.M.SINGH)
Member (A)

*Ani.