

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A.1153 of 1996

Date of Order: 20.05.2004

Present : Hon'ble Mr. Nityananda Prusty, Judicial Member
Hon'ble Mr. N. D. Dayal, Administrative Member

MANOJ KR. PROSAD AND ANR.

VS.

UNION OF INDIA AND ORS.

For the Applicant : Mr. P.C. Das, counsel

For the Respondents : Mr. B. Mukherjee, counsel

O R D E R

MR. NITYANANDA PRUSTY, JM:

In this application filed under section 19 of A.T. Act, the two applicants, who claim to have worked as Casual Majdoors under S.D.O.(T), Suri, under the Department of Telecom during 1984 and 1985 have inter alia prayed for grant of temporary status and regularisation against Group 'D' posts in terms of Department of Telecom circular dated 07.11.1989. They have also prayed for their re-engagement in temporary capacity till such regularisation.

2. The applicant No. 1 claims to have worked as casual Majdoor for the period from February, 1984 to July, 1985 for the maintainance of Cable in Suri sub-division while applicant No.2 has claimed that he worked as causal Majdoor for the period from January , 1984 to December, 1985 for cable construction/maintainance in the same sub-division under S.D.O.(T). Their services were disengaged in 1985. Thereafter they made representations for their reengagement in March, 1987 but to no effect. Subsequently also they made another representation in 1990 followed by another one in 1993. Since they were not reengaged inspite of repeated representations, they ultimately filed advocate's notice in 1996 and filed the instant O.A. on 19.9.1996 claiming the aforesaid reliefs.

3. The respondents have filed their reply contesting the application. They have mainly stated that the present application is hopelessly barred by limitation as the applicants were allegedly disengaged in the year 1985, whereas the present application has been

filed in the later part of 1996. There is no explanation for such inordinate delay nor any prayer has been made for condonation of delay and hence the application is liable to be dismissed.

4. On merits, the respondents have pointed out that the applicants have only produced a certificate allegedly issued by S.D.O.(T) certifying that the applicants had worked for certain period in 1984-85. There is no other document to show that the applicants had actually worked under the respondents. It is their case that there is a seniority list of all casual Majdoors of Berhampore Telecom District within which Suri Sub-division also falls. In this list the names of the applicants do not appear and, therefore, it can be safely concluded that the claim of the applicants is not genuine.

5. It is further averred that as per the circular of the department of Telecom dated 18.11.88, those casual Majdoors, who were working under the department and were in roll upto 31.3.1987 have been regularised. Since the applicants' names did not appear in the seniority list, their cases could not be considered at this stage. So far as the office memorandum dated 07.11.1987 on the basis of which the applicants have staked their claim, is concerned, it is contended that this circular is not applicable in the case of the applicants.

6. We have heard 1d. counsel for both the parties. Mr. P.C. Das, 1d. counsel for the applicant has submitted that the applicants have been making repeated representation before the authorities for consideration of their case for re-engagement. But, no reply was given to them nor they were re-engaged. Therefore, there cannot be any question of limitation as contended by the respondents as they did not care to give any reply to the representations made by the applicants. He has further stated that the circular dated 07.11.1989, clearly indicates that those casual labours/Majdoors, who have worked for 240 days in a year should be conferred temporary status and since

the applicants had already worked for more than 240 days in 1984-85, they are also entitled to be considered for conferment of such temporary status and consequential regularisation.

7. Mr. B. Mukherjee, ld. counsel for the respondents has, however, contended that the claim of the applicants is not genuine as their names do not appear in the combined seniority list of Baramphur Telecom District. It is further contended that the Department of Telecom has now become B.S.N.L., a public sector organisation and B.S.N.L. having not been impleaded as a party in this case, no relief can be granted nor this Tribunal can entertain this application at this stage.

8. We have considered the matter very carefully. We find that except two certificates allegedly issued by S.D.O.(T)(Annexure-A/1 and A/2), no other documents have been placed on record by the applicants to establish their claim that they had actually worked under the respondents during 1984-85. No doubt there are some copies of representations which appear to have been duly received with stamp and seal in the office of the respondents but this does not prove that the applicants had really worked under the respondents, especially when the respondents have categorically averred that they never worked as casual Majdoors under the respondents. The respondents in support of their case have produced a seniority list of such casual Mazdoors, in which as many as 231 names are there, out of which many were working as casual majdoors in Suri Division in 1983-85, but the names of the applicants do not figure in this list. This list was published on 1st, November, 1988. If the applicants had really worked under the respondents, and their names were not included wrongly, they ought to have taken appropriate steps for incorporation of their names in the list by producing the relevant documents.

9. The applicants have mainly relied on the circular dated 07.11.1989 issued by the Deptt. of Telecom in support of their case. We find that according to this circular temporary status is required to be given to those casual Mazdoors/labours, who have rendered a continuous service for at least one year, out of which they must have been engaged and worked for a period of 240 days. However, in Clause-V of the said circular it is clearly mentioned that "temporary status would be conferred on all casual labourers currently employed.....". Admittedly, the applicants were not employed on 07.11.1989 when this circular was issued and, therefore, they were not coming within the purview of this circular as they were not employed as on 7.11.89. Thus, they were not entitled to claim temporary status as per this circular.

10. Now coming to the question of limitation as raised by the 1d. counsel for the respondents, we find that the applicants were disengaged in 1985, and they have filed this application on 19.09.1996. There is no separate application seeking condonation of delay nor is there any explanation for such inordinate delay.

Although the 1d. counsel for the applicants has tried to persuade us that since no reply has been given to the repeated representations filed by the applicants, there cannot be any question of limitation, it is now well settled that repeated representations cannot extend the period of limitation prescribed in the statute.

Furthermore, the Hon'ble Supreme Court while interpreting the Section 21 of the A.T. Act, has held in the case of Ramesh Chand Sharma VS. Udhamp Singh Kamal and Ors., 1999(8) SCC, 304, that time barred application for which condonation of delay is not sought under section 21(3), the Tribunal can not even admit such application and dispose it of on merits. Since no separate application has been filed by the applicants praying for condonation of delay, in our opinion

this application is liable to be dismissed on the ground of limitation alone. However, on merit also as we have seen that the applicants have no case.

11. Apart from the above, the Department of Telecom has since been converted into a Corporation viz. B.S.N.L. and the said Corporation having not been added as a party in this OA, no relief even though admissible could be granted to the applicants.

12. In view of the above, we are unable to grant any relief to the applicants. Accordingly, the application is dismissed both on the grounds of limitation and on merit, apart from it being outside the jurisdiction of this Tribunal.



(N.D. Dayal)

MEMBER(A)



(N. Prusty)

MEMBER(J)