

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH.

No. O.A. 1391 of 1996.

Present : Hon'ble Dr. B.C.Sarma, MEMBER (A)

Hon'ble Mr. D. Purkayastha, MEMBER (J)

1. ANANDA KUMAR PRAMANICK :

2. PANNA DUTTA .

vs.

1. Union of India, through the Secretary, Min. of Communications, Deptt. of Telecommunication, Sanchar Bhawan, 20, Asoka Road, New Delhi.

2. The Chief Engineer (E), Deptt. of Telecommunications, 195, Rash Behari Avenue, 3rd floor, Calcutta - 19.

3. Superintending Engineer (Elect.), Telecom Elect. Circle II, Yogayog Bhawan, 36, C.R.Avenue, Calcutta - 12.

... Respondents.

For applicants : Mr. M.S.Banerjee, Counsel.

Mr. S.K.Dutta, Counsel.

For respondents : Ms. K. Banerjee, Counsel.

Heard on : 12.5.97 :: Ordered on : 12.5.97.

O R D E R

B.C.Sarma, AM

The dispute raised in this application is about the grant of temporary status to the applicants and also regularization of their services as Driver under the respondents.

2. Two applicants have jointly filed this application. The applicant No.1 has been functioning continuously as Driver under the respondents from 9.4.91 and applicant No.2 from 19.11.91. It is also their specific contention that they are duly qualified for being appointed as Driver and they have also passed the requisite trade test and despite that no temporary status has been granted to them by the respondents nor their services have been regularised.



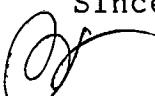
2.

The instant case has been filed with the prayer that a direction be issued on the respondents to grant them temporary status and also consider their cases for regularization of service.

3. The case has been opposed by the respondents by filing a reply. The respondents have not disputed the fact of working of the applicants as Driver as narrated in the application. However, they averred that the benefit of temporary status could not be given as there is no sufficient post of Driver. They have simply stated that the applicants are not performing their duties as Driver in a regular manner and also there is no need of Driver in the office of the Executive Engineer where the applicants are performing their duties and the applicants' services have not been regularized therefor. They have, therefore, prayed for dismissal of the case on the ground that it is devoid of merit.

4. During hearing, Mr. Dutta, 1d. counsel for the applicants, invited our attention to the DOP&T, Casual Labourers (Grant of Temporary Status and Regularization) Scheme, as mentioned at page 368 onwards of the Swamy's Annual 1993 - Compendium of Orders on Service Matters. Mr. Dutta submits that grant of temporary status would be ~~available~~ complete to casual labourers who are employee on the date of issue of the above OM and who have rendered continuous service of at least one year which means that they must have been engaged for a period of 206 days, if it is a five days week establishment. Since these requirements for grant of temporary status have already been fulfilled by the applicants, there is no ground for denial of the said temporary status to the applicants.

5. We have perused the contents of the said scheme and we find that grant of temporary status has got nothing to do with the availability of regular post and it is not connected whatsoever ~~about~~ ^{with} the creation or availability of any regular post. Since both the applicants have



fulfilled the criterion for grant of temporary status, we are of the view that they shall be declared to have got the temporary status after completion of 206 days on continuous basis from the date of appointment and necessary orders shall have to be passed by the respondents in the matter.

6. We further note that as regards regularization of services, the respondents contend that there is no need of Driver in the office of the Executive Engineer in which the applicant No.1 and 2 has been working. We find that verification of the reply has been signed by the said Executive Engineer. However, we note, despite the fact that the respondents have averred that there is no need of any Driver, the applicants have continued to work as Driver under them from 1991 onwards and even for a day or so their services were not terminated. Our attention has been invited to the correspondence at annexure A to the application which shows that there is need of Drivers. Even common sense will say that if a person continues to work as casual labourer for years together, it cannot be said that there is no need of that post and benefit of regularization cannot be denied by holding that there is no need of the post. We are, therefore, of the view that the contention of the respondents in this regard cannot be accepted.

7. In view of the above, the application is disposed of with the following directions :

- (a) Temporary status shall be granted to both the applicants by the respondents after completion of 206 days of work from the date of appointment on continuous basis and such order shall be issued within a period of one month from the date of communication of this order.
- (b) ~~for~~ Thereafter the case of regularization of the services of the applicants shall be taken up by the respondents with the appropriate authorities as per rules.

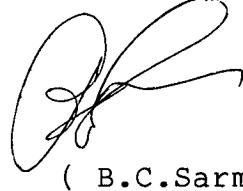


(c) All consequential benefits shall also be given to both the applicants after the said declaration of having got job the temporary status has been made with effect from 1.9.93, as stipulated in the said Scheme.

(d) No order is passed as regards costs.


(D.Purkayastha)

MEMBER (J)


(B.C.Sarma)

MEMBER (A)