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CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH  
LUCKNOW  
.....

Original Application No. 702 of 1991

IN

T.A. No. 187 of 1992 T.L.

Union of India through  
Principal, Regional Telecom.  
Training Centre, Lucknow

..... Applicant

Versus

Gyan Prakash & others

..... Respondents

Hon'ble Mr. Justice R.K. Varma, V.C.  
Hon'ble Mr. V.K. Seth, Admn. Member

( By Hon. Mr. V.K. Seth, Admn. Member )

In this application under section 19 of Administrative Tribunals Act 1985, the applicant Union of India have challenged the order dated 15.4.91 passed by the Presiding Officer, Central Government Industrial Tribunal, Kanpur through which the award has been made to reinstate and pay back wages to respondent No. 1 Gyan Prakash who was un-skilled labour and employed in the past by the Principal, Regional Telecom, Training Centre, Lucknow from 29.7.1985 to 29.7.1987.

2. According to the applicant Union of India the respondent No. 1 was engaged from the open market on daily wages for specific work of short duration on adhoc basis on 29.7.1985. This engagement was brought to an end by issuing the letter dated 30.6.1987 through which one Month's notice was given to the respondent (Annexure-2).

3. It is contended by the applicant that the respondent was engaged only for an installation

work  
/and as such all the casual posts automatically came  
to an end as soon as the installation work was completed  
some time in June, 1987. It is further argued that Principal  
Regional Telecom, Training Centre is not an industry with-  
in the meaning of section <sup>25 (F)</sup> of Industrial Disputes Act.  
The applicant have also drawn support from AIR 1978  
SC 548 in re. Bangalore Water supply Vs. A. Rajappa & others  
and argued that relying on the aforesaid judgment this  
Hon'ble Tribunal has held that Posts & Telecom. Department  
is not an industry ( O.A. No. 675/87 Sattu Lal Vs.  
Union of India & others ) and T.A. No. 1238/87 (Akchay  
Vs. Union of India & others ). They also add that the  
services of respondent No. 1 have not been terminated  
under section 25 (F) of Industrial Disputes Act as will  
be clear from the notice dated 30.6.1987 and further  
the petitioner is an organisation which is a separate  
unit from regular working of Telecom. Department and,  
therefore, is not any industry and nor any retrenchment  
was made. They have also cited in their support  
judgment dated 15.3.93 in O.A. No. 166/91 in re. Union  
of India & others Vs. Nagendra Singh & another.

4. In the Counter affidavit the respondent~~s~~ has  
argued that he was engaged as a casual labour for perfor-  
ming every casual work and including the maintainance work a  
and not any specific job. He also states that various  
judgment have held that P & T Department is an industry  
and the casual labour who have rendered more than 240 days  
service can not be terminated without compliance of section  
25 (F) of Industrial Disputes Act. The learned counsel  
for the respondent has also cited several rulings.

and also.

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and/or.

5. We have carefully considered the records of the case and given our anxious consideration to the arguments of learned counsel for the parties.

6. At the outset it would be useful to consider how far the various rulings, cited by the learned counsel are relevant in the present case.

(a) (1989) 9 Administrative Tribunals Cases 218

C.A.T. Ahmedabad, M.A. Bukhari Vs. Union of

India & others decided on 30.11.1988 -----

The petitioner Coolie in P & T Department for performing Group 'D' work-----

held after one year of continuous service, his services can not be terminated without complying with section 25 (F) of Industrial Disputes Act, the respondents are directed to reinstate and pay back wages.

(b) (1991) 15 Administrative Tribunals Cases 326

C.A.T. Jodhpur Abdul Aziz Vs. Union of India

& others decided on 25.10.1990 -----

The petitioner was casual labour (Mazdoor) in the Telecom. Department----- reinstat-

ment without complying/with section 25 (f) of Industrial Disputes Act----- held

entitled to reinstatement with all back wages less amount if any earned as wages elsewhere.

(c) Ahmedabad Bench, O.A. No. 253/88 decided on

19.4.91 Marubhai Makwana Vs. Union of India

& others----- The applicant was casual labour completed more than 240 days of service during 12 calendar months, Held Telecom. Department is an industry. oral order of termination

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quashed and respondents ~~were~~ directed for reinstatement of applicant and pay back wages.

- (d) C.A.T. Hyderabad Bench O.A. No. 298/88 decided on 30.10.91 B. Prasad Reddy Vs. S.D.O. Telecom. & others----- terminated from service with one month's notice without benefits of section 25 (F), of Industrial Disputes Act at the time of termination-----  
----- reinstatement with back wages ordered.
- (e) C.A.T. Patna Bench O.A. No. 363/89 decided on 11.4.1990 S.K. Pandey & others Vs. Union of India & others----- The applicant skilled wireman getting minimum payment including D.A. ----- held that the applicant is entitled to continuity in service with full back wages.
- (f) C.A.T. Lucknow Bench O.A. No. 166/91 decided on 15.3.93 Union of India through Principal, Regional Telecom Training Centre Lucknow Vs. Nagendra Singh & another-----  
The respondent was engaged from open market for specific work on adhoc basis from 12.6.85. Held that the respondents was working on maintainance side also and if persons who were engaged subsequent to him are continuing, the respondents shall be reinstated from the date of award but would not  
/ be entitled to back wages on the principle of 'no work and no pay'

7. A perusal of above cited rulings will show that the present case <sup>is</sup> /distinguishable in facts and

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circumstances from all the cases except the last one viz. C.A.T. Lucknow Bench O.A. No. 166/91.

The facts and circumstances of the present case and those of ~~the~~ O.A. 166/91 are almost identical. The applicant Nagendra Singh in that case was also engaged under the Principal, Regional Telecom. Training Centre and his services were dispensed with after giving one month's notice w.ef. 1.8.1987. Infact the name of Nagendra Singh figures in the impugned order in the present case as well. In that case also the Union of India which was the opposite party before the Central Government Industrial Tribunal, Kanpur had challenged the award made by the Tribunal.

8. Considering that the various aspects of the present case are identical to that O.A. No. 166/91 (Union of India & others Vs. Nagendra Singh & another), we are of the view that the ends of justice would be fully met by issuing of similar orders in the present case. Accordingly, we direct that the respondent shall be reinstated, if any person who was subsequently taken from the open market for similar work was continuing. He shall, however, not be entitled to any back wages on the principle of 'No work No pay'. This period nevertheless shall be counted for regularisation of the respondent in case any person subsequently engaged was retained during this period and is considered for regularisation. *The impugned award shall stand modified accordingly.*

9. The application is disposed of in above terms with no order as to costs.

*Lu 5*  
Admn. Member

*R.K. Vanna*  
Vice-Chairman

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Lucknow; Dated: 18 Feb '94