

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH: PATNA

Registration No.OA-436 of 1996

(Date of decision 11.8.97)

1. Shambhu Nath Singh, S/o Shri Bulak Singh
Posted as D.R.M. Telegraph Office Godda.
2. Ranjay Kumar S/o Shri Lakhi Chandra Singh
Posted as D.R.M. Telegraph Office Godda.
3. Nirmal Kumar S/o Late Rambilash Singh
Posted as D.R.M. Telegraph Office Godda.
4. Suresh Singh S/o Shri Girja Roy,
Posted as D.R.M. Telegraph Office, Godda.
5. Sudhir Prasad Sharma S/o Shri Sukhdeo Prasad
Sharma Posted as D.R.M. Telegraph Office,
Jamtara.
6. Gore Soren S/o Shri Shanwar Soren posted
as D.R.M. Telegraph Office Dumka.
7. Arjun Kumar S/o Shri Kalika Singh,
Posted as D.R.M. Telegraph Office Dumka.
8. Arun Kumar Jaiswal S/o Shri Baleswar Prasad
Choudhary Posted as D.R.M. Telegraph Office, Dumka.
9. Bukhnandan Roy S/o Shri Ambika Roy posted as
D.R.M. Telegraph Office Dumka.
10. Lalan Singh S/o Shri Suresh Singh posted as
D.R.M. Telegraph Office Sahibganj.
11. Sujit Biswas S/o Shri Bimal Biswas Posted

as D.R.M. Telegraph Office Sahibganj.

12. Madhur Kumar S/o Shri Bachchan Gope
posted as D.R.M. Telegraph Office
Sahibganj.

13. Murari S/o Shri Thakur Paswan Posted as
D.R.M. Telegraph Office Sahibganj.

..... Applicants

By Advocate: Shri R.K.Choudhary.

Versus

1. Union of India through the Chief

General Manager Telecom Bihar Circle,

Meghdoot Building, G.P.O.Complex

Patna-800 001.

2. The Telecom District Engineer, Dumka.

3. Accounts Officer C/o T.D.E.Dumka.

4. The Telecom District Engineer,

Bhagalpur.

..... Respondents

By Advocate: Shri S.C.Dubey

Coram: Hon'ble Mr. Justice V.N.Mehrotra, V.C.

O R D E R

Hon'ble Mr. Justice V.N.Mehrotra, Vice-Chairman

This OA has been filed under Section 19 of the
Administrative Tribunals Act, 1985 praying that the
respondents be directed to regularise the services
of the applicants after conferring temporary status
and the instructions contained in Annexure-A/6 be

declared illegal, unconstitutional and be accordingly set aside.

2. The applicants who number 13 have been permitted to join in this application. They have alleged that they belong to newly created SSA Unit Dumka and prior to this they were under the control of SSA Head Bhagalpur. All the applicants are working since long in C.T.O/D.T.O at B Deoghar, Sahibganj, Dumka and Godda and they were recruited in the department prior to the order of 1995 which was under the control of S.T.T.Katihar till 1.4.1994 i.e. before the merger of Telegraph Traffic Wing to Engineering Wing. After the merger of the Telegraph Traffic Wing with the Engineering Wing with effect from 1.4.1994, the applicants were made over to the T.D.E. Bhagalpur and the S.T.T. Katiharsupplied details of work done by these DRMs yearwise to the T.D.E. Bhagalpur (Annexure-A/1 and A/2). The D.E.T. Bhagalpur after verification of the records of the applicant allowed to continue their services and also declared them from D.R.M. to T.R.M (Annexure-A/3). The T.D.E, Dumka vide his letter dated 5.7.1996 requested the T.D.E Bhagalpur to make payment to the applicants from his end till the verification of the original records (Annexure-A/4). It is asserted that similarly situated persons working in C.T.O/D.T.O under the control of T.D.E, Katihar, who joined the department ~~with~~ the applicant have been granted T.S.M. with effect from 1.1.1995

but the legal claims of the applicants have been ignored by issuing letter dated 14.6.1995 (Annexure-A/6). It is claimed that similar cases have been decided by this Tribunal in OA-650 of 1991, OA-673 of 1991 and OA-676 of 1991 which have been upheld by the Supreme Court. It is asserted that according to the departmental circulars and rules the applicants were entitled to be conferred temporary status and they should have also been considered for regularisation in accordance with the relevant rules. It is also asserted that the salary of the applicants for the months of May, 1996 to August, 1996 was illegally withheld by T.D.E. Dumka.

3. The respondents have filed written statement asserting that the receipt of original records from T.D.E. Bhagalpur is awaited by T.D.E. Dumka. It has also been mentioned that action will be taken on receipt of original records which have been called for. It is stated that the wages for the months of May, 1996 to September, 1996 have been provisionally paid to the applicants on the basis of the photostat copies of the charge report of S.T.T. Katihar to T.D.E. Bhagalpur duly attested by Deputy D.E.T. Bhagalpur and the delay in payment was only due to this reason. The contention by the respondents in effect is that as the original documents have not been received by T.D.E. Dumka from T.D.E. Bhagalpur where the applicants were earlier working, the matter has not been finally decided. Thus, the

W

respondents do not clearly assert that the claim made by the applicants was wrong, though they have not specifically admitted the contention by the applicants regarding the periods for which they have been working or the number of days in which they worked during these years.

4. I have heard the learned counsel for the parties and examined the material on record. The contention by the applicants is that they had been engaged as D.R.M. since before the year 1985 and were still working. They have placed reliance on Annexure-A/2 sent by the Subdivisional Engineer, Telecom, Katihar to the Telecom District Engineer (T.D.E) Bhagalpur on 28.12.1994 in reply to the letter dated 21.11.1994 by T.D.E.Bhagalpur. The names of the applicants appear in this letter (Annexure-A/2). It also mentions the years when the present applicants and others were engaged and the number of days for which they have worked during these years.

5. The scheme for grant of temporary status and regularisation of the services of the Casual Labourers (D.R.M) was framed by the Ministry of Communications, Department of Posts on 12.4.1991) Clause (1) of this scheme reads "temporary status" would be conferred on the casual labourers in employment as on 29.11.1989 who continue to be currently employed and have rendered continuous service of atleast one year. During the year they must have been engaged for a period of 240 days (200 days in the case of offices observing 5 days week).

Thus, the applicants have to show that they were in employment on 29.11.1989 and also continued to be employed on 12.4.1991 onwards. They have also to show that they have rendered continuous service of at least one year and during that year they have been engaged for a period of 240 days. As mentioned earlier, the applicants have placed reliance on Annexure-A/2 to assert that their cases are covered by the 1991 scheme. The respondents have not so far scrutinised the cases of the applicants for granting temporary status under the scheme. They have also not asserted that the applicants are not entitled to be granted temporary status. In these circumstances instead of scrutinising Annexure-A/2 and finding out as to whether the applicants were actually working on 29.11.1989 and were also working on 12.4.1991 onwards and had actually worked for 240 days in a year, the matter should be left to the authority concerned who will have the original record with him on the basis of which this matter can be properly decided. As for the regularisation of the services of the applicants, that can only be considered after the conferment of temporary status when regular vacancies are available and the applicants become eligible for being so considered for regularisation. At this stage, no direction for regularisation can be issued.

6. In view of the above discussion the respondent no.2, the Telecom District Engineer under whom the applicants are presently working is directed to consider

the cases of the applicants for being granted temporary status in accordance with the 1991 scheme framed by the Government. In case the applicants are found entitled to be ^{granted} temporary status then the same shall be conferred on them. The respondent no.2 shall complete this exercise within a period of three months from the date of receipt of a certified copy of this order. No order as to costs.

V.N. Mehrotra
11-8-1997
(V.N.MEHROTRA)
VICE-CHAIRMAN

MAA