

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.547/1996

DATE OF DECISION: 10TH APRIL, 2001.

CORAM: HON'BLE SHRI KULDIP SINGH, MEMBER (J)
HON'BLE SHRI SHANTA SHASTRY, MEMBER (A)

Shri Chandrabhan Shankar Dheringe,
working as Casual Labourer,
(Temporary status mazdoor)
At & Post Palse,
Taluka Nasik,
Dist. Nasik.

(Applicant by Shri S.S.Karkera, Advocate) ... Applicant

vs.

1. Union of India,
through: The General Manager,
Telecom, Kalyan Telephone Exchange Bldg.
Kala Talao,
Kalyan 421 301.

2. The Divisional Engineer (O & M)
Central Telephone Exchange
Gauri Pada, Near Payal Talkies
Bhiwandi - 421 382.

3. Shri M.S. Adsul,
The Junior Telecom Officer,
Out door, Bhiwandi,
Central Telephone Exchange,
Bhiwandi 421 382.

..... Respondents.

(Respondents by Shri P.M. Pradhan, Advocate)

O R D E R [ORAL]

[Per: Kuldip Singh, Member (J)]:

The Applicant in this case has challenged the Order dated 29.5.1995 issued by Respondent No.2 whereby the Applicant was asked to stop the work with the Department. The facts in brief are that the Applicant had joined the Department as Casual Labourer on 1.1.1996. He was conferred with the Temporary

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Status as per DOPT Scheme as Applicant had completed work for more than 240 days in a year. The Temporary Status was conferred vide order dated 3.5.1994. It is further pleaded by the Applicant that on 28.5.1995 the Applicant was called by his Junior Telecom Officer Shri M.S. Adsul and he was told that the Applicant had connected a telephone No.31326 of STD PCO to telephone No.33088 on 27.5.1995. Though the Applicant was not concerned in any manner about this illegal diversion of the line, still he was asked to give an undertaking and consequent to that the Applicant was asked by the impugned order to stop work as a Casual Labourer. The Applicant has challenged the same and while the O.A. was pending another Order dated 12.01.2000 was issued, whereby the Respondents have declined to absorb the Applicant in the Department. The Applicant had amended the O.A. and have also impugned the Order dated 12.1.2000. The main grievance of the Applicant is that as per the DOPT Scheme if a casual labourer who has been conferred with the temporary status, his services can be dispensed with only after holding a regular inquiry and giving him ample opportunity to defend himself. Without conducting an enquiry his services cannot be dispensed with. The Applicant further alleged that his subsequent order of 12.1.2000 though it mentions that the Applicant is being denied absorption in the Department but it is consequent to the earlier order dated 29.5.1995 and it amounts to termination of the services of the Applicant which has been done without holding any regular

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departmental enquiry and the Applicant is entitled to be reinstated in the service.

2. We have heard the learned Counsels on both sides and have gone through the records.

3. According to the Respondents a Vigilance raid was conducted and the report submitted by the vigilance Authorities had thrown some suspicion on the conduct of the Applicant as he had slipped away from the spot where he was asked to wait and the Applicant had removed the key bundle from the lock. The Applicant is stated to have slipped away on the pretext of going to toilet and after that he became out of sight and came back to the spot along with a few other staff members. They gave some sort of explanation as to why they were missing. Based on that Vigilance Report it appears that the Applicant had not been absorbed and regularised in the service. During the course of arguments the Department was unable to show any document if any chargesheet has ever been served on the Applicant or any enquiry had been conducted on any charges for any misconduct of the Applicant. In the absence of that we find the dispensing with the services of the Applicant is contrary to the DOPT Scheme and the order dated 29th May, 1995 thus cannot be sustained. Similarly, the order denying the absorption to the applicant passed on 12.1.2000 is also not sustainable. We, therefore, quash the orders and set aside the same. We, further direct the Respondents to reengage the services of the Applicant and his seniority as casual labourer with temporary status be also maintained. These directions be

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complied with within a period of 2 months from the date of receipt of a copy of this Order. The prayer for wages for interregnum period is rejected as Applicant had not worked during this period.

4. No costs.

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(Smt. Shanta Shastri)
Member (A)

Kuldip Singh
(Kuldip Singh)
Member (J)

sj*