

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

O.A.542/2000

Dated this Monday the 29th Day of October, 2001.

Hon'ble Shri Justice B.N. Singh Neelam, Vice Chairman.

Shri Krishna J. Kamble,  
working (then) as Helper  
(Casual Mazdoor) under S.D.O.  
Telegraph, Ratnagiri,  
R/at : Kalyanchi Wadi,  
at Pomendi Budruk,  
Tal. Ratnagiri,  
District Ratnagiri - 415 612.

.. Applicant.

( By Advocate Shri S.P. Kulkarni )

VERSUS

1. Union of India, through  
The Telecom District Manager,  
Gurukrupa Building, Bandar Road,  
At Post, Taluka Ratnagiri,  
District Ratnagiri-415612.
2. The Chief General Manager,  
Telecommunications,  
Department of Telecommunications,  
Ministry of Communications,  
Government of India, Fountain-II,  
(Telecom Building), Fort,  
Hutatma Chowk, Mumbai-400001.
3. Chairman, Telecom Commission,  
(Through) : Assistant Director  
General, (STN) Government of India,  
Department of Telecommunications,  
STN Section, Dak-Tar Bhavan,  
Parliament Street,  
New Delhi - 110 001.

.. Respondents

( By proxy counsel Shri K.R. Yelwe,  
for Shri V.S. Masurkar, Counsel ).

ORDER (Oral)

[ Per : Justice B.N. Singh Neelam, Vice Chairman ]

Shri S.P. Kulkarni, learned counsel for the

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applicant Shri Krishna Janu Kamble filed this O.A. under Section 19 of the AT Act, 1985, initially seeking the following reliefs:-

(a) This Hon'ble Tribunal be pleased to call for the records of the case and after perusal of the same pass an appropriate order in the interest of justice.

(b) Hold and declare that the applicant is governed by Scheme for grant of Temporary Status and regularisation in accordance with O.M. dated 7.11.1989.

(c) Hold and declare that Respondents acted arbitrarily as they failed to issue call-letter to the applicant as also did not respond to his representations made during 1986 to 1999, thereby putting the applicant to remain jobless while several other Casual Mazdoors were re-engaged and regularised.

(d) Hold and declare that applicant has preferential claim for re-engagement being pre-31.03.1985 entrant.

(e) Direct Respondents to take the applicant on duty as Casual-Mazdoor and confer upon him Temporary-Status from due date, within one month.

(f) Direct Respondents to grant all consequential benefits such as Seniority etc.

(g) Direct Respondents to regularise (absorb) the applicant as Group 'D' on the first available vacancy.

(h) Direct Respondents to grant all benefits of Temporary Status with immediate effect deeming that applicant has served 3 years.

(i) Any other and such further relief as may be deemed fit and proper by this Hon'ble Tribunal.

(j) Cost of Rs.5000/- be awarded and paid to applicant."

But in the course of the argument, the learned counsel for the applicant has confined himself to the prayer so sought for in para 8(e).

2. On behalf of the applicant it is pointed out that

he was engaged as Casual Mazdoor under the Central of Sub-Divisional Officer, Telegraphs Ratnagiri and has worked as Helper during the period from 1.1.1983 to 31.1.1985 for a period of 634 days as detailed in para 4.3 of this O.A. It is also pointed out that the authorities in this regard has even issued a certificate on 8.12.1988 which is so appended and marked as Annexure 'A'. That being the position, it is pointed out that the applicant is rather entitled to be considered of being giving temporary status which is so denied and for which when the attention by the applicant was so drawn at several occasions to the concerned respondents by filing representations the same could not be looked into and decided in the hands of the respondents. In support of his contention with regard to the representations filed and not considered a reference is particularly made in paragraph 6 of this O.A. and copies of the representations so filed are annexed as Annexure AA to GG. This state of affairs with regard to the applicant working for 634 days it is also admitted by the respondents side and in this connection attention is drawn to the written statement of the respondents so filed particularly in its paragraph 11. In this background hence the prayer is that the relief so sought for at para 8(e), be thus allowed by giving a specific direction to the concerned respondents as to grant him temporary status.

3. On behalf of the applicant it is also pointed out that in a case like this it cannot be said that the application so filed is time barred. In this connection attention is drawn to a reporting case of 1999(3) ATJ 546 and a copy of the said judgment is filed and placed at page 98 which is marked as Exhibit 'KK'. In the said case of 1999(3) ATJ 546, Bhartiya Dak Tar Mazdoor Sangh through its President and ors vs. Union of India and Ors (Supra). the learned counsel for the applicant has particularly referred to its paragraph 5 and has submitted that since the scheme is not a one time affair to which the applicant is claiming himself entitled for getting temporary status rather the scheme is continuous scheme where the casual labourer are entitled for benefit as soon as they meet the criteria which makes them entitled for the reliefs so sought for and in that light since the cause of action is continuing in nature it cannot be said to be hit by limitation.

4. Mr.K.R. Yelwe proxy counsel for Mr.V.S. Masurkar, learned counsel appearing on behalf of the respondents on the other hand has submitted that with regard to <sup>the</sup> contention so made in paragraph 4.3 of this O.A. in support of which reliance is placed to Annexure 'A' at page 15, by going through the contents at page 15 with that of page 16 and 17 of this O.A., it cannot be said that such certificate was so granted by the department concerned after due verification of the

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applicant claimed working for 634 days. All other points so also taken as good grounds according to the respondents in the written statement for dismissing this O.A. are pressed into service. It is also referred that the O.A. is belatedly filed and that way too the same has no leg to stand.

5. After hearing the learned counsel for both the sides and also after going through the contents of the O.A. with that of the written statement so filed also keeping in mind arguments so advanced particularly after going through para 4.3 of this O.A. with that of the reply so given on behalf of the respondent No.1 para 11, I hold the view that <sup>even</sup> after verification it is so found that the present applicant had worked as casual labourer for more days than that of the time limit given in the scheme the advantage of which the applicant wants to take claiming entitlement for consideration for being given temporary status, this O.A. can well be disposed of by giving certain directions to the respondents. As regards point so raised in the M.P. so filed for condonation of delay, M.P.No.842/2000 and reply so filed to that effect on behalf of the respondents in the light of the reported case so referred i.e. 1999(3) ATJ 546 (Supra), I hold the view that the applicant has satisfied in assigning reasons for entertaining this O.A. and not dismissing the same on the score of its being filed belatedly.

6. With regard to the relief so sought for at para 8(e) which is only hammered in the course of argument, in

my considered opinion in the background of the facts and circumstance the concerned respondent i.e. Telecom District Manager, Ratnagiri, figuring here as Respondent No.1 is hereby directed as to consider the case of the applicant for grant of temporary status after verifying the documents so filed and marked as Annexure 'A' in support of his contention with regard to his working as casual labourer for 634 days and if after verification, the contention so made on behalf of the applicant in this regard is found correct and the applicant so fits in the terms and conditions of the scheme by which the temporary status is being granted to the casual labourers, his case be also in that light considered and the matter be disposed of within a period of 4 months from the date of receipt of copy of this order with intimation to the applicant.

7. The matter stands accordingly disposed of alongwith the M.P. Parties to bear their own cost.



( B.N. Singh Neelam )  
Vice Chairman.

H.