

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Review Application No.64/93 in

Dated:

14 DEC 1993

APPLICATION NO(s) 540 of 1991.

APPLICANTS: M.Prakash

RESPONDENTS: Chief General Manager,
Telecom, Bangalore & Ors.

TO.

1. Sri.F.V.Pati, Advocate, No.555, 53rd Cross,
Third Block, Near Rama Mandir, Rajajinagar,
Bangalore-560 010.

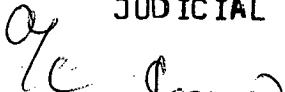
SUBJECT:- Forwarding of copies of the Orders passed by
the Central Administrative Tribunal, Bangalore.

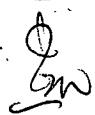
-xxx-

Please find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 26th Nov'93.


DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*


Sesna


GW

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: :BANGALORE

REVIEW APPLICATION NO.64/93

DATED THIS TWENTY SIXTH DAY OF NOVEMBER, 1993

Present: Shri S.Gurusankaran, Member (A)

Shri A.N.Vujjanaradhya, Member (J)

M.Prakash, Major
S/o Muniswamy,
No.16, 3rd Cross,
Hassan Road, Upper Lane,
Arasikere,
Hasan District.

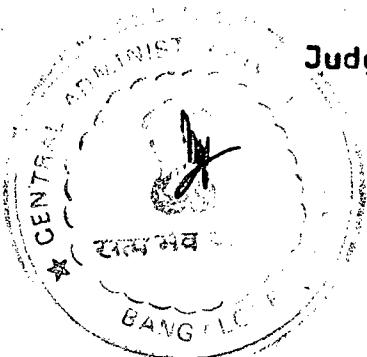
.. Petitioner

By Advocate Shri F.V. Patil (Applicant No.10 in OA 540/91)
Versus

1. Chief General Manager,
Telecoms, Bangalore.
2. Telecom District Engineer,
Shimoga,
3. Sub-Divisional Officer,
Telephones, Shimoga.
4. Sub-Divisional Officer,
Telegraphs, Bhadravati.
5. Sub-Divisional Officer,
Telegraphs, Sagar.
6. Telecom District Engineer,
Hassan.
7. Sub-Divisional Officer,
Telegraphs, Arsikere.

... Respondents
(Respondents 1 to 7 in
OA 540/91)

Judgement by : Shri S.Gurusankaran, Member (A)



.....2/-

This Review Application has been filed by the Review Applicant, who was one of the applicant in OA 540/91, which came to be disposed off by order dated 15.9.1992 by a bench of this Tribunal. In that order, this Tribunal has directed the respondents to engage the applicants, if work is available, by giving preference to them if any junior has been considered for engagement. It has also been brought out that the question of seniority has to be considered on the basis of total number of days they have worked. The sole ground put forth in this R.A. is that as per the judgement of the Supreme Court dated 17.2.1990 in the case of Ramgopal & Others Vs. UOI & Others in W.P. (c)120/89, the respondents have been directed to prepare a scheme on a rational basis for absorbing the casual labours as far as possible, particularly a casual labour who is continuously working for more than one year in the Posts and Telegraphs Department. The learned counsel submits that no such scheme has been prepared. We find this is not correct and such a scheme has already been prepared and has been implemented. Even otherwise, if the scheme has not been prepared by the department as per the orders of the Supreme Court or if the scheme prepared by the department is not as per the directions of the Supreme Court, such matters cannot be the basis for reviewing our orders dated 15.9.1992 in OA 540/91.

2. Shri F.V.Patil appearing for the Review Applicant argued that the respondents are not consi-

J

dering the case of the applicant for re-engagement, even though there is work, since in the orders of the Tribunal, it has been clearly indicated that no specific time limit has been laid down. We, therefore, prayed that atleast a specific time limit may be laid down for considering the case of the Review Applicant for reengagement, in case work is available. We are unable to agree with this submission also, since it has been clearly mentioned in the order, no ~~dead~~ ^{date} line can be given. Assuming that the work is available but the department is not wanting to get the same done by engaging the Review Applicant or any ~~to~~ other person, it is not within the jurisdiction of this Tribunal to direct the respondents to get the work done by engaging the Review Applicant or any other person depending upon the seniority in accordance with rules. Hence we find no merit in the submission of the Review Applicant. Since ~~the application is being rejected on merits, we are not going into the question of delay in filing this Review Application.~~ In the result, no sufficient grounds have been made for reviewing the orders of this Tribunal dated 15.9.1992 and the Review Application is rejected at the admission stage itself.

Sd/-

(A.N.VUJJANARADHYA)
MEMBER (J)

TRUE COPY

Gaja

Sd/-

(S.GURUSANKARAN)
MEMBER (A)

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

D. S. Gaja
14/12/93

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS DAY THE 15TH OF SEPTEMBER, 1992

Present: Hon'ble Shri P.S. Habeeb Mohamed Member (A)
Hon'ble Shri Syed Fazlulla Razvi Member (J)

APPLICATION NO.540/1991

1. A.M. Jayanna
S/o A.M. Mukundappa
2. Ashok, Son of
Raghavendra
3. Imanual Bhaskar
S/o Jayasheela
4. K.N. Laxman
S/o K. Nanjappa
5. J.K. Gangappa
6. M. Nagaraj, Son of
R.N. Manjappa
7. K.B. Hoovappa
8. K.M. Somashekhar, Son of
K.P. Mallappa
9. M. Nagaraj, Son of
Manjur Naik
10. M. Prakash, Son of
Muniswamy
11. Gangappa
S/o Chanabasanayaka

Applicants

(Applicants 1 to 9 are casual
mazdoors, Sub-divisional Office,
Telephones, Shimoga)
Applicants 10 and 11 are also
casual Mazdoors and working in
the office of Sub-Divisional
Officer, Telephones, Arsikeri.
Dt: Hassan



(Shri F.V. Patil - Advocate)

v.

1. Chief General Manager,
Telecoms, Bangalore
2. Telecom District Engineer,
Shimoga
3. Sub-Divisional Officer,
Telephones, Shimoga
4. Sub-divisional Officer,
Telegraphs, Bhadravati
5. Sub-Divisional Officer,
Telegraphs, Sagar,
6. Telecom District,
Engineer, Hassan
7. Sub-divisional Officer,
Telegraphs, Arsikeri

Respondents

(Shri M.V. Rao - Advocate)

This application has come up before this
Tribunal for orders. Hon'ble Shri P.S. Habeeb
Mohamed, Member(A) made the following:

O R D E R

In this O.A., Shri A.M. Jayanna and 10
others who were working under the respondents
(Telecom Department, Bangalore with various sub-
offices represented by R-3 to 7) have challenged
the termination of their services and have prayed
for issue of directions by the Tribunal declaring
that their termination from employment is unlawful
and for absorbing them after giving continuity of
service. The other relief prayed for vide prayer(c)

runs as below:

"(c) Issue direction to take the applicants on Muster Roll and to pay equal salary to the applicants to that of regularised the Mazdoor, in the interest of justice and equity."

2. According to the applicants they were engaged as Casual Mazdoors under the respondents 2, 4, 5, 6 and 7 from 1981 and also in the years 1983-84, 1985-86, 1989-90 but they were not given any work from January, 1991, onwards.

3. A preliminary objection has been taken by the respondents that the cause of action arising on different dates, they should not be allowed to be clubbed in one single application particularly when they were working in different offices. However, it is admitted in the counter filed by the respondents that the applicants worked for the following periods under the respondents:

S/Shri

1. A.M. Jayanna	5/84 to 6/85
2. Ashoka	1.3.85 to 1.7.85
3. Emanival Bhaskara	1.5.84 to 13.6.85
4. K.N. Laxman	12.10.83 to 28.2.85 and 1/89 for 3 days
5. J.K. Gangappa	4.9.83 - 31.8.84 16.1.89 - 25.1.89
6. M. Nagaraj	5.3.84 - 30.4.85
7. K.B. Honappa	18.11.84 - 31.7.85
8. K.M. Somashekara	6/81 to 4/82
9. M. Nagaraj	1.5.84 to 4.3.85
10. Prakash	19.11.81 to 31.7.84
11. Gangappa	9.2.82 to 17.8.85



4. As it is clear that the respondents have raised a technical objection to the cause of action arising out of different dates for the applicants but as the respondents have admitted their having worked in the department sometimes earlier, we have over-ruled the objection of the respondents and allowed the applicants to be clubbed in one application. It is also clear that the applicants have worked for certain periods as admitted by the respondents.

5. During the arguments of the case, the learned counsel for the applicants highlighted the facts that the applicants had worked for some time and also drew special attention to the averments made in the counter that the applicants J.K. Gangappa and K.N. Laxman had worked for certain periods in 1983 and Gangappa had worked for one week in 1989 and Laxman had worked in addition to the period in 1983 to 1985 for 3 days in 1989. The fact remains that they had previous service in the department.

6. While the applicants' counsel was not able to point out any circular or orders of the respondents enabling the applicants' cases to be considered for engagement and later regularisation, there should be no objection for engaging the applicants if work is available and giving preference to them if any junior to them has been considered for engagement. The question of their seniority has to be considered

on the basis of total number of days they have worked. They may be placed at the bottom of any list prepared by the department for engagement, for purpose of engagement when work is available. We are not giving any particular date line for considering their engagement which depends on the work available and other factors. The respondents are directed accordingly. There will be no order as to costs.



MEMBER (A)

Sd-

15/9/92

Sd-

MEMBER (J)

15/9/92

TRUE COPY

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

R/ 27/5/93

27/5/93