

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 1126/93

24.8.95  
Date of Decision:

**Bharatiya Dak Tar Mazdoor Sangh & Anr.**  
Applicant.

**Shri H.Y.Dee**

Advocate for  
Applicant.

Versus

**Union of India & Ors.**

Respondent(s)

**Shri P.M.Pradhan**

Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. D.S.Baweja, Member (A)

Hon'ble Shri. S.L.JAIN, Member (J)

- (1) To be referred to the Reporter or not? ✓
- (2) Whether it needs to be circulated to other Benches of the Tribunal? ✕

*D.S. Baweja*  
(D.S.BAWEJA)  
MEMBER (A)

OA.NO.1126/93

Dated this the 24<sup>th</sup> day of August 1999

CORAM: Hon'ble Shri D.S.Baweja, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

1. Bharatiya Dak Tar Mazdoor Sangh  
(A Registered Trade Union  
Representing the other  
Applicants who are the  
members of this Trade Union)

Through

Shri. D.A. Pingale,  
President,  
Bharatiya Dak Tar Mazdoor Manch  
Kalyan.

2. Shri. Nivruti Lumaji Phalke
3. Shri. Balkrishna Balwant Kasar
4. Shri. Balu Shivram Dubhele
5. Shri. Deoram Bhaga Patekar
6. Shri. Ambadas Balu Jaras
7. Shri. Ramkrishna Deoram Gadhave
8. Shri. Rajesh Budhaji Nikam
9. Shri. Kashinath Vishnu Dandage
10. Shri. Ramesh Bhimrao Kale
11. Shri. Ashok Mahadu Gaigol
12. Shri. Mangalu Narayan Bhoir
13. Smt. Meena Mahadev Parmar
14. Shri. Pramod Pundalik Kakade
15. Shri. Chintaman Babu Raikar
16. Shri. Prakash Tukaram Utekar
17. Shri. Shrikrishna Kundalik Shinde
18. Shri. Tukaram Mahadu Thakare
19. Shri. Janu Kamalu Dhapte
20. Shri. Valu Vithal Sable
21. Shri. Shevalal Shitaram Prajapati
22. Shri. Damodar Budhaji Gavale
23. Shri. Anil Bhagwat Gajare
24. Shri. Chouranginath J. Shejwal
25. Shri. Sunil Damodar Patil
26. Shri. Ramesh Namdeo Bhoir

27. Shri. Shankar Dhondu Damse
28. Shri. Prabhakar N. Kokane
29. Shri. Bhaga Shivrya Gavale
30. Shri. Gopal Pandurang Dighe
31. Shri. Manohar Janu Rane
32. Shri. Rajesh Balkrishna Sable
33. Smt. Vatsala Kashinath Dahiwad
34. Shri. Pravin Raghunath Nanal
35. Smt. Meena Kashinath Dahiwad
36. Shri. Janu Deu Valamba
37. Shri. Ashok Bhiva Newalkar
38. Shri. Nana Ganpat Bhangare
39. Shri. Sanjay Trambak Bagal
40. Shri. Madhav Bhaurao Daware
41. Shri. Dattu Dehu Valamba
42. Shri. Ananta Budhaji Gawhale
43. Shri. Chahadu Bahiru Bhosale
44. Shri. Ananda Vanaji Bhavsar
45. Shri. Dattu Waman Bhoir
46. Shri. Ananta Chaitu Sathe
47. Shri. Sampat Amruta Patil(Gadhawe)
48. Shri. Kailas Bajirao Ugale
49. Shri. Prakash Sitaram Kotkar
50. Shri. Laxman Parsu Parde
51. Shri. Rama Mahadu Valamba
52. Shri. Krishna Kundalik Jarag
53. Shri. Shankar Bhimaji Thube
54. Shri. Basantu Pal
55. Shri. Nanasahab Vasudeo Kapate
56. Shri. Tanaji Nathu Ugale
57. Shri. Bhalchandra Maruti Mune
58. Shri. Bahiru Tukaram Bhosale
59. Smt. Alka Dagadu Punyarthi
60. Shri. Saudagar Maruti Gawali

61. Shri. Pradeep Damu Jadhav
62. Shri. Dinkar Haribhau Bhoir
63. Smt. Meena Natha Wala
64. Shri. Ramu Murlidhar Choudhari
65. Shri. Gopal Chau Gaikar
66. Shri. Govind Ladaku Tarmale
67. Shri. Dnyaneshwar Gangaram Bhor
68. Shri. Vilas Kishor Kumbale
69. Shri. Bhausaheb Laxman Shahane
70. Shri. Dattu Karbhari Kapase
71. Shri. Ramdas Vishnu Jadhav
72. Shri. Trambak Gangadhar Gite
73. Shri. Vithal Kondaji Binnar
74. Shri. Shivaji Bajirao Shinde
75. Shri. Bhagwan S. Mathsagar
76. Shri. Shantaram Mahadeo Kale
77. Shri. Nivruti Kashinath Adake
78. Shri. Ramesh Uttam Kapate
79. Shri. Sukhadev Dhondiram Mate
80. Shri. Pawan Bhimrao Kapure
81. Shri. Dilip Dattatraya Shimpi
82. Shri. Dnyaneshwar Nivruti Gadhave
83. Shri. Lahuraj Jagannath Gaikwad
84. Shri. Ramdas Trimbak Thanage
85. Shri. Subhash R. Kadam
86. Shri. Ashok Bapu Wani
87. Shri. Narayan Krishna Shinde
88. Shri. Gautam Babu Adangale
89. Shri. Dattu Genu Ugale
90. Shri. Bapurao Jagannath Dhingole
91. Shri. Tanaji Narhari Sonavane
92. Shri. Chandrabhan S. Dheringe
93. Shri. Vishnu Chintaman Gode
94. Shri. Suresh Kisan Warungse

95. Shri. Bhalchandra Shivram Ghagas
96. Shri. Shankar Dhondiram Gode
97. Shri. Kaliram Vishnu Patil
98. Shri. Raghunath Bhaskar Bhoir
99. Shri. Naresh Kashinath Patil
100. Shri. Vijay Uttam Kapate
101. Shri. Dattu Damodar Bhoir
102. Shri. Sakru Mahadu Valamba
103. Shri. Bhagwan Narayan Velhal
104. Shri. Gajanan Shriram Khadekar
105. Shri. Vishnu Laxman Borade
106. Shri. Damodar Balu Patil
107. Shri. Swami Chandrakant Kene
108. Shri. Ganesh Sakharan Adake
109. Shri. Ramesh Babu Gawhale
110. Shri. Namdeo Bhagoji Bhakare
111. Shri. Kachru Laxman Muthal
112. Shri. Nagnath Navnath Jagtap
113. Shri. Kisan Dhondiram More
114. Shri. Balnath Uttam Kapate
115. Shri. Mohan Narhari Choudhari
116. Shri. Ganesh Yadav Adake
117. Shri. Somnath Sajan Bhand
118. Shri. Vasant Kisan Bhor
119. Shri. Prabhakar Mahadeo Adhikari
120. Shri. Deepak Madhukar Kadam
121. Shri. Vishwanath Nandu Kunde
122. Shri. Prakash Sukhadev Hagwane
123. Shri. Gorakhnath Ambadas Rajguru
124. Shri. Vasant Kachru Jadhav
125. Shri. Ramdas Baburao Raikar
126. Shri. Suresh Shankar Raut
127. Shri. Ramu Punja Gadkari
128. Shri. Ganpat Parshuram Rao

- 129. Shri. Bhagwan Pandurang Patil
- 130. Shri. Druvraj Narayan Choudhari
- 131. Shri. Maharaj Shahu Parbat
- 132. Shri. Ashok Sakharan Patil

Address for All Applicants

Office of the Bharatiya  
Mazdoor Sangh,  
3, AB, Hashim Building,  
40, Veer Nariman Road,  
Fort, Mumbai 400 023.

--- Applicants

By Advocate Shri H.Y.Deo  
V/S.

- 1. Union of India  
Through : Chairman  
Department of Telecommunication  
Sanchar Bhavan  
Ashoka Road  
New Delhi 110 001
- 2. The Chief General Manager  
Maharashtra Telecom Circle  
G.P.O. Building,  
Bombay 400 001
- 3. The General Manager  
Kalyan Telecom District  
Kala Talao,  
Kalyan 421 301.

--- Respondents

By Advocate Shri P.M.Pradhan

O R D E R

(Per : Shri D.S.Baweja, Member (A))

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This application has been filed jointly by the Union named Bharatiya Dak Tar Mazdoor Sangh along with other 131 applicants who are working as casual labourers in the Kalyan Telecom District. The applicants have submitted that they have been engaged as casual labourers and have been working for a considerable period from the various dates of engagement starting from 1985 to 1987 and have completed 240 days. The details with regard to dates of engagement and working days in respect of the applicants are given at Annexure-'A-1' of the OA. The applicants state that the Department of Telecommunication in pursuance of the Hon'ble Supreme Court's <sup>judgement</sup> in Writ Petition No. 373/86 has laid down the scheme for grant of temporary status and regularisation of the casual labourers as per letter dated 7.11.1989. This scheme has been implemented only in respect of casual labourers who had been appointed before 30.3.1985. The applicants have not been granted temporary status as their dates of appointment are after 30.3.1985. The applicants submit that they had taken up the matter with the concerned authorities through their registered union, i.e. Applicant No. 1 and <sup>it was</sup> verbally assured that the case of giving temporary status to those of the

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casual labourers who had been engaged after  
is under consideration  
30.3.1985/and their cases will be considered.

However, no action had been taken inspite of  
the repeated representations and therefore the  
applicants have to seek legal remedy by filing  
the present OA. on 25.8.1993.

2. The applicants have based their case  
grant of  
for the/reliefs on two grounds :- (a) The applicants  
have stated that implementation of the scheme in  
respect of casual labourers who had been engaged  
before 30.3.1985 only is unfair, unjust and  
discriminatory and therefore in violation of  
provisions of Articles 14 and 16 of the Constitution  
of India. (b) The scheme for grant of temporary  
status and regularisation of casual labourers lays  
down that all casual labourers who had worked  
/for a year and engaged on work for 240 days  
continuously/are eligible for temporary status.  
No cut off date with regard to/engagement has been  
date of  
stipulated. It is only in the covering letter dated  
17.11.1989 through which the scheme has been laid  
down that a stipulation has been made with regard  
to application of scheme in respect of these casual  
labourers/only who had been engaged upto 30.3.1985. In  
view of this, the applicants contend that this  
stipulation placed by the respondents is in violation  
of the decision of the Hon'ble Supreme Court in writ  
petition No. 373/86.



3. The applicants have sought the following reliefs :- (a) to declare that the scheme laid down as per letter dtd. 7.11.1989 is discriminatory. (b) direct the respondents to confer temporary status on the applicants w.e.f. 1.10.1989. (c) direct the respondents to pay the arrears of wages as become payable on grant of temporary status from 1.10.1989.

4. The respondents at the out set have opposed the application on two technical grounds. The respondents have stated that the present application is not maintainable as no Misc. Application has been filed by the applicants for making a prayer for joining together in one OA. The respondents have also stated that the application is barred by limitation as the applicants are claiming the benefit of scheme laid down as per order dated 7.11.1989 by filing the present OA. on 25.8.1993. As regards the merits, the respondents submit that as per the scheme laid down only those casual labourers who had been engaged upto 30.3.1985 were to be allowed the benefit of the scheme and in respect of those engaged subsequently temporary status was not to be granted without specific approval of Department of Telecommunication. In view of this, the respondents submit that since the applicants have been appointed after 30.3.1985, they are not entitled for the benefit of scheme with regard to grant of temporary status. The respondents

deny that there is any discrimination or violation of provisions of Articles 14 and 16 of the Constitution of India as the applicants are not meeting with the eligibility criteria laid down for implementation of the scheme. In view of these facts, the respondents plead that the applicants are not entitled for any relief and the OA. deserves to be dismissed.

5. Before dealing with the matter on merits, we will take up the technical objections raised by the respondents in opposing the application. The first being that the applicants have not filed any application Misc. for joining together in one OA. On going through the OA., we, however, note that though the applicants have not made <sup>any</sup> separate Misc. application making a prayer for joining together, but this prayer has been made in Para 8 at item (b) where the reliefs have been sought. Further, it is noted that the OA. had been admitted on 22.11.1993 which <sup>would</sup> <sup>the</sup> imply that <sup>the</sup> prayer for joint application had been granted. In view of this, we do not find any merit in this objection of the respondents. The second objection is that the application is barred by limitation as the applicants are claiming benefit of the scheme laid down as per order dated 7.11.1989 by filing the present OA. on 25.8.1993. The applicants in Para 3 of the OA. have

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stated that the respondents have failed to regularise the applicants in terms of the scheme laid down as per the order dated 7.11.1989 and cause of action is continuing as they are entitled for the benefits as per the scheme. We find merit in the contention of the applicants. The applicants are claiming benefit of grant of temporary status as per the scheme laid down as per order dated 7.11.1989. The scheme is not a one time affair but it is a continuous scheme where the casual labourers are entitled for benefit as soon as the criteria laid down for entitlement is met with. Therefore, the cause of action is continuing in nature and <sup>in our opinion the</sup> present OA. is not barred by limitation.

6. Coming to the merits, the learned counsel for the applicants during the hearing made a statement at the Bar that the Applicants No. 2 to 20 have been already allowed the benefit of temporary status from 1.10.1989 while the other remaining applicants have been allowed the benefit of temporary status from 17.12.1993. The counsel for the applicant, therefore, made a submission that the only relief <sup>which</sup> survives for consideration is that the remaining applicants are also entitled for the benefit of temporary status from 1.10.1989. At this stage, the learned counsel for the respondents opposed grant of any relief from

1.10.1989 stating that once the orders have been issued for granting temporary status from 17.12.1993, the applicants have to challenge this order in case they are still aggrieved. Since the applicants have not challenged this order, in the opinion of the respondents, the applicants cannot pray for the relief of grant of temporary status from 1.10.1989. The learned counsel for the applicant, however, contested this submission of the respondents stating that their original relief of grant of temporary status survives irrespective of the fact that the respondents have granted temporary status from 17.12.1993. After careful consideration of the rival contentions, we are of the view that the respondents' contention is not tenable and the claim of the applicants for a relief of grant of temporary status still survives.

7. The respondents have submitted in the written statement that the applicants are not entitled for the benefit of scheme as laid down by the order dated 7.11.1989 as they have been engaged subsequent to 31.3.1995. It is further stated that in case of those who have been engaged after 31.3.1995, the approval has to be granted by the Department of Telecommunication and no such approval has been granted in case of the applicants. The applicants on the other hand, have contended that <sup>only</sup> in the covering

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letter the restriction of engagement upto 31.3.1995 for implementation of the scheme has been laid down and there is no such stipulation in the scheme enclosed with the O.M. dated 7.11.1989. The applicants, therefore, plead that the restriction placed by the respondents in implementation of the scheme is in violation of the decision of the Hon'ble Supreme Court in Writ Petition No. 373/86 based on which the scheme as per order dated 17.11.1989 has been laid down. During the hearing, the learned counsel for the applicant brought to our notice letter dated 17.12.93 issued by the Department of Telecommunication based on which the applicants have been allowed temporary status from 17.12.1993. On going through this order, it is noted that the scheme which was earlier restricted to those who had been engaged upto 31.3.1985 has been extended by this order in respect of those casual labourers who have been engaged between the period from 31.3.1985 to 22.6.1988. This would imply that the Department has given the approval for grant of temporary status in respect of those who had been engaged after 31.3.1985 as envisaged in the letter dated 7.11.1989. In view of this position, we fail to understand as to how the respondents have granted temporary status from 17.12.1993, i.e. date of issue of this order. On going through this order, we do not find that any stipulation for grant of temporary

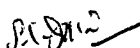
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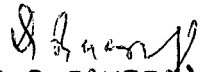
status in respect of casual labourers covered by this order is to be effected from the date of issue of the order. Once the period for engagement has been extended upto 22.6.88, it will mean that all those who have been engaged during this period are also covered by the original scheme effective from 1.10.1989 in case the casual labourers meet with the criteria laid down in the scheme of grant of temporary status. In view of these observations, we are unable to uphold the action of the respondents for grant of temporary status only from 17.12.1993. It is our considered opinion that those of the applicants who are granted temporary status from 17.12.1993 are entitled for grant of temporary status from 1.10.1989 in case they meet with the criteria of eligibility. The learned counsel for the applicant also cited a judgement in the case of Danvir Singh vs. Union of India & Ors., 1997(2) ATJ 364, wherein the provisions of the scheme as laid down by order dated 17.11.1989 by the Department of Telecommunication has been gone into. In this case, the matter had been agitated by the casual labourers who had been appointed in July, 1990. The Bench has held that the applicants appointed as casual labour<sup>er</sup> in 1990 are entitled for grant of temporary status on completion of 240 days in terms

of the scheme of 1989 cut-off date of 1.10.1989 is not the sacrosanct and the only criterion for grant of temporary status is completion of 240 days of service. We are in respectful agreement with what is held in this order. Concludingly, we hold that the applicants are entitled for the benefit of grant of temporary status from 1.10.1989 in case they have been engaged between 31.3.1985 to 22.6.1988 and meet with the eligibility criteria of working for 240 days in service in a year.

8. The applicants have claimed the payment of arrears of wages that become due on account of grant of temporary status from 1.10.1989. We do not find any merit in this claim of the applicants in view of the fact that though the applicants claim benefit from 1.10.1989, but have agitated the matter only in August, 1993. Further, the applicants have been already granted the temporary status from 17.12.1993.

9. In the result of the above, the OA. is allowed with the direction to the respondents that the applicants shall be granted temporary status from 1.10.1989 in case they meet with the criteria of eligibility as laid down as per the scheme dated 7.11.1989. The applicants shall not be entitled for payment of any arrears arising out of grant of temporary status from 1.10.1989. Compliance to be done within 3 months from the date of receipt of the order. No order as to costs.

  
(S.L. JAIN)  
MEMBER (J)

  
(D.S. BAWEJA)  
MEMBER (A)