

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.362/1995

DATE OF DECISION:

This Monday, the 10th Day of July 2000

1. Shri Balaji Baliram Deone
2. Shri Sanjay Tulsiram Bhosale Applicants.

(By Shri D.S.Dighe, Advocate)

Versus

Shri Union of India, thru, Chairman, Respondents
Department of Telecommunications.

(By Shri. S.S.Karkera, for Shri P.M. Pradhan, Advocate).

CORAM

Hon'ble Shri B.S. Jai Parameshwar, Member (A)

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

No

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(B.S. Jai Parameshwar)
Member (J.)

sj*

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

Original Application No. 362/1995
Dated this Monday, the 10th Day of July 2000.

Coram: Hon'ble Shri B.S. Jai Parameshwar, Member (J)
Hon'ble Shri B.N. Bahadur, Member (A)

1. Balaji Baliram Deone
C/o Shri Gopal Krishna
Mandir, Opposit Railway
Station, Hamalpura,
Nanded 431602.

2. Sanjay Tulsiram Bhosale
c/o Gopal Krishna Mandir
Hamapura, Opposite
Railway Station, Nanded
431602.

..... Applicants

(Applicant represented by Shri D.S.Dighe, Advocate)

vs.

1. Union of India,
through the Chairman,
Department of Telecommunications,
Sanchar Bhavan,
South Block, New Delhi.

2. General Manager,
Telecom,
Marathwada, Aread (Nanded)
Behind Kala Mandir,
Dr. Kotalwar Building,
Somesh Colony,
Nanded 431 601.

3. Telecom District,
Engineer, Godawari Complex
VIP Road, Nanded 431602.

4. Sub-Divisional Engineer
(Phones) I
Telephone Bhavan,
Nanded-431 601.

(Respondents represented by Shri S.S. Karkera, Advocate for Shri P.M. Pradhan, Advocate)

O R D E R (ORAL)

[Per B.S.Jai Parameshwar, Hon'ble Member (J):

Heard Mr.S.D.Dighe, learned Counsel for Applicant and
Shri S.S.Karkera for Shri P.M.Pradhan learned Counsel for the
Respondents.

2. There are two Applicants in the O.A. They were initially engaged as part time Casual Labourers as per Ex. A. A copy of the letter dated 29.4.1993. They submit that they were working on daily rated basis as casual labourers for six months prior to 8.4.1993. Their appointment as part-time temporary casual labourers for four hours per day was made on 8.4.1993 and thus they were working from 8.4.1993 to 31.01.1994. They submit that from 1.02.1994 they were working for 7 hours per day without lunch break. They submit that enhancement of working hours of part time Casual Labourers for four hours to 7 hours per day was in accordance with the sanction given by the Respondent No.3 vide letter dated 7.2.1994. They submit that they were working continuously for a period of one year and 11 months without break. Their work was ~~of~~ perennial in nature. They have furnished the particulars of the duties performed by them, vide Exh. C.

3. The Respondent No.4 issued letter dated 22.2.1995 informing the Applicants that their services would stand terminated w.e.f. 31.3.1995 as per the letter No. GMT NND Lr. No. NMD/STAFF-6/MAY/IV dated 8.12.1994.

4. The Applicants have filed this Application to set aside the order of Termination dated 22.2.1995 and for a consequential direction to the Respondent to reinstate them to the post of permanent Sweeper or absorb them on the permanent posts as a regular permanent sweeper or in the alternative, to direct the Respondents to reinstate or regularise their services.

5. The Respondents filed the reply. They denied that the Applicants were engaged as Casual Labourers prior to 8.4.1993. They submit that Applicants were engaged on hourly basis since

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8.9.1993 whenever required by the Department as a stop gap arrangement. They rely upon the Circular issued by the DOT No.270-6/34/ST dated 30.3.1985 whereunder it was clearly stated instructions, not to engage the casual labourers on daily wages and the applicants were purely engaged on hourly basis by the Respondent No.4. There was ban for recruitment for engaging the Group D^{Staff} since 1985 and the Department had engaged casual labourers and some of the casual labourers approached the Hon'ble Supreme Court. Then the Hon'ble Supreme Court issued directions for regularisation of casual labourers. Thus they submit that after 30.3.1985 the Department could not have engaged any casual labourers. Thus, they submit that the applicants are not entitled to the reliefs claimed by them.

6. The Applicants have filed the rejoinder. Along with the rejoinder they have produced a copy of the letter No.GOI No.269-4/93-STN dated 10.2.1995 wherein certain instructions were issued by the DOT for considering the casual labourers who were engaged between 31.3.1985 and 22.6.1988 who are still continuing for such works in the circles where they were initially engaged and who are not absent for more than 365 days continuously preceding 17.12.1993. Thus, the applicants submit they come under the instructions contained in letter dated 10.2.1995.

7. During the course of arguments the learned counsel for the Applicant relied upon the instructions given by the Department in letter No.269-13/99-STN-II dated 16.9.1999 and contended that the cases of the Applicant may^{also} be considered as per the instructions contained therein.

8. As against these, the learned Counsel for the Respondents relied upon the decision of the Hon'ble Supreme Court in Civil

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Appeal No.7457/1997 in the case of *Union of India & Ors.* vs. *Janakdhari Pawan* dated 24.10.1997, and the decision of the Hon'ble Supreme Court in the case of *Secretary, Ministry of Communications and Others* vs. *Sakkubai and another* reported in 1998 (1) ATJ 556.

9. The Applicants were terminated by the impugned order dated 22.2.1995. The Applicants submit that they were engaged as part time casual labourers from 8.4.1993. The Respondents dispute this fact. Even though the Respondents contended that after 30.3.1995, certain persons were engaged as casual labourers because of the fact that there was ban on recruitment of Group D posts and on that such casual labourers were considered for grant of temporary status as per the instructions given in the year 1989. The Annexure R.i to the Rejoinder was issued to consider those who could not be granted temporary status and who were continuing in the department. The Scheme dated 10.2.1995 Annexure R.I to the rejoinder is applicable to the full time casual labourers.

10. In fact in case of *Sakkubhai & Anr.* relied upon by the Respondents the Department itself relied upon the letter dated 17th May, 1989 and submitted before the Hon'ble Supreme Court that even part time Casual Labourers would be considered for grant of temporary status and absorption, if they become eligible in accordance with the settled law.

11. Further, the instructions contained in the letter dtd 16.9.1999, was issued for conversion of part time Casual Labourers working 4 or more hours per day into full time casual labourers. Paras (i) and (ii) of the said Letter are reproduced hereinbelow.

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- "(i) As a one time relaxation, part time casual labourers with 4 ore more hours of duty per day who have worked for 240 days in the preceding 12 months may be converted into full time casual labourers. This will be applicable only to the extent of the numbers indicated against respective field units in the Annexure.
- (ii) They should be engaged as casual labourers subject to suitability."

From the above paras it is clear that the Department itself has undertaken the exercise of conversion of part time casual labourers into full time casual labourers. Now it is for the Department to consider the case of the Applicants either under the Scheme envisaged in Annexure R.I to the Rejoinder or under the letter dated 16.9.1999.

Hence we feel it appropriate to issue the following directions:-

(a) The cases of the Applicants be considered in accordance with the instructions contained in letter No.269-4/93-STN dated 10.2.1995 or under letter dated 16.9.1999.

(b) The Respondents shall inform the Applicants suitably.

(c) Time for compliance ^{is} 4 months from the date of a Copy of this Order.

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(d) If for any reason the cases of the Applicants cannot be considered under any of the letters dated 10.2.1995 and 16.9.1999, then in case there is work and need for engaging Casual Labourers in the Department the respondents shall consider the cases of the applicants in preference to freshers.

With the above directions, the O.A. is disposed of no orders as to costs.

B.N. Bahadur

(B.N. Bahadur),
Member (A)
sj*

B.S. Jai Parameshwar
10.7.2009
(B.S. Jai Parameshwar)
Member (J)