

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

OA 1042/1998

MUMBAI, THIS THE th19th DAY OF JUNE, 2001

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Shri Madhukar G.Ghodajkar

Age : Adult

R/at : Fawdi Wadi, Near Samta Nagar

Nanded.

District-Nanded

...Applicant

(By Advocate Shri S.P.Kulkarni)

V E R S U S

UNION OF INDIA :

Through

1. Director General
Deptt. of Telecom
Sanchar Bhawan, Ashoka Road
New Delhi - 110 001.
2. The Bharat Sanchar Nigam Ltd.
Through : The Chief General Manager
Fountain Telecom Bldg. No.2, 8th floor
Fountain : MUMBAI - 400 001.
3. The Telecom District Manager
Department of Telecommunication
NANDED - 431 601.
(MAHARASHTRA),

...Respondents

(By Advocate Shri V.S.Masurkar)

O R D E R

BY HON'BLE SHRI GOVINDAN S. TAMPI,

OA 1042/98 filed by the applicant Shri M.G.Ghodajkar is for his re-engagement in service from 3-3-1998 and to consider him as having been on duty for all the purposes of seniority.

2. Heard Shri S.P.Kulkarni and Shri V.S.Masurkar, learned counsel for the applicant and the respondents respectively.

3. The applicant, a Schedule Caste individual, who has passed 9th standard states that he had joined the respondents on 25-6-1984 as a casual Driver and was serving in the same post for more than 14 years and 8 months till his services were terminated by a verbal order of 3-3-98. His appointment was not through Employment Exchange, but by a verbal direction from respondent-3 i.e. Telecom District Manager, Nanded. He had worked with a number of officers of the respondent-3 since 1987 and he had continued in the post on account of his excellent driving skills as well as his integrity and punctuality. His services had been engaged on account of permanent Drivers going on leave. In terms of the Scheme drawn up by P & T, Departmental Drivers engaged on casual/daily wages basis prior to 1-4-1985 could be considered for appointment against 50 % quota for outsiders i.e. direct recruits. In spite of the above he was not so considered for regularisation after the date of his filing the application. The stipulation of completion of 240 days in a year for regularisation in the case of group 'D' does not exist in the case of the Drivers, but experience of driving for four years with licence for heavy and light vehicles was indicated as the requisite qualification at times with relaxation. According to the applicant, he has produced a number of slips showing his engagement, but except one certificate given by an officer who has already retired, the respondents have not corroborated the evidence of his engagement. At the same time the applicant has some records i.e. copies of Log Books of the Jeep, he was driving during the period to substantiate his plea that he was in the service of the respondents. The same could

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be favourably considered and the respondents be directed to consider him for re-engagement against the Scheme for regularisation of casual or daily wages purpose, is his plea. He has appended a few certificates that he was engaged during various periods from 1984 onwards. The same should, therefore, go to show that his claim was correct and he should be given the benefit of regularisation, is what the applicant prays. In his M.P. he has referred to details of his reported services from 1984-85, 1990-91, 1994-95 etc. for various periods, all of which according to him would prove his case. Shri S.P.Kulkarni, learned counsel for the applicant strongly argues for the above and states that the applicant's case deserved favourable consideration and acceptance.

4. The pleas raised by the applicant are rebutted on behalf of the respondents by Shri V.S.Masurkar, their counsel. It is indicated that on examination of the details furnished by the applicant, it was found that at some stage he could have been engaged on a purely casual and temporary basis, but the same could not be established for want of records. It is also stated that in one or two instances, he has shown as having worked with more than one officer, which was not possible. In addition ~~to~~ the above, the respondents reiterate in the oral pleadings that what is ~~submitted~~ ^{attempted} to be raised by him is a matter which would fall squarely within the purview of Industrial Disputes Act, 1947 and thus outside the purview of the Tribunal as settled by the the Hon'ble Supreme Court in the case of Krishna Prasad Gupta Vs. Controller Suprintendent of Stationary (1996 (32) ATC 211) upholding the order of the Full Bench of this Tribunal. The same would also go against the applicant's

case, Shri Masurkar prays.

6. I have carefully considered the matter and I find that on the basis of the facts brought on the records, at best the claim of the applicant ~~admit~~ as a questionable one. It appears that he had worked for a very short while, may be off and on with some officers of the respondents' organisation on purely casual and ad hoc basis and the same would not bestow on him a right for consideration for regularisation. The documents viz. reported copies of log books, which have been produced by the applicant, are not duly certified by the concerned persons under whom he has reportedly been working and, therefore, his claim for regularisation on the strength of such certificates is suspect. Even otherwise this being an issue falling squarely under the purview of Industrial Disputes Act, it would be clearly covered by the decision of the Hon'ble Apex Court in the case of Krishna Prasad Gupta (supra). The Tribunal's jurisdiction is ousted in the matter like this.

7. In view of the above both on the point of jurisdiction and on merits, the application fails and is accordingly dismissed. No costs.


(GOVINDAN S. TAMPI)
MEMBER (A)

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