

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

CA No. 1073/92 : Date of order 8.8.94

Baney Singh : Applicant

v/s

Union of India & Others : Respondents

Mr. Virendra Lodha : Counsel for the applicant

Mr. U.D. Sharma : Counsel for the respondents

CORAM

Hon'ble Mr. Gopal Krishna, Member (Judicial)

Hon'ble Mr. O.P. Sharma, Member (Administrative)

PER HON'BLE MR. O.P. SHARMA, MEMBER (ADMINISTRATIVE)

Shri Baney Singh has filed this application u/s 19 of the Administrative Tribunals Act, 1985, praying that the order dated 5.4.88 (Annexure A-2) may be quashed and the respondents may be directed to take the applicant back in service forthwith. There is a further prayer that the applicant may be treated as in continuous service, with all consequential benefits.

2. The applicant was appointed as a casual labour in the Railway Electrification Project Division, Bharatpur in the charge of the Divisional Engineer Telegraph (Railway Electrification) by order (Annexure A-1) dated 27.6.85. Vide letter dated 5.4.88 (Annexure A-2), the applicant was informed that he would be discharged from service w.e.f. 4.5.88. The applicant's case is that he was not paid retrenchment compensation as provided under the Industrial Disputes Act and the conditions prescribed under the said Act were also not followed while retrenching him from service.

3. The respondents in their reply have stated that the applicant was engaged ~~in~~ <sup>for</sup> work of a casual nature and on completion of the work his services were terminated.

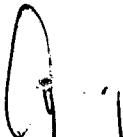
4. During the arguments, the learned counsel for the

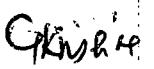
applicant, referred to the judgement of the Hon'ble Supreme Court in Daily Rated Casual Labour employed under P & T Department through Bhartiya Dak Tar Mazdoor Manch Vs. Union of India & Others, AIR 1987 SC 2342, delivered on 27.10.87. The facts of the case of this judgment are that the persons concerned had been working as casual labourers for long periods. The Hon'ble Supreme Court observed in their judgment that non-regularisation of temporary employees or casual labour for a long period is not a wise policy. The Hon'ble Supreme Court directed the respondents to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Posts & Telegraphs Department. The learned counsel for the applicant thereafter produced before us a copy of the judgment of the Principal Bench of the Tribunal in Munim Singh & Ors. Vs. Union of India & Ors in OA No. 1476/90, delivered on 2.8.91. In this judgment, the Principal Bench was dealing with the cases of casual Mazdoors in the office of the Executive Engineer, Telecom, Department of Telecommunication, Agra. The Tribunal took note of the fact that the respondents had prepared a scheme for regularisation of the casual labourers in accordance with the directions of the Hon'ble Supreme court in the case, referred to above. The Tribunal partly allowed the application before it and directed that if there is work in Divisions other than the Division from which the applicants were terminated, they should be offered work of casual labourers, wherever vacancies exists, depending on the total length of service rendered by them. The Tribunal further directed that the respondents shall also consider the suitability of the applicants for regularisation in accordance with the scheme prepared by them pursuant to the judgment of the Hon'ble Supreme Court, mentioned above, depending on the availability of vacancies.

in their offices located throughout the country. The learned counsel for the applicant added that the applicant in this case had, in any case, put in service of more than one year and even on the date of the Judgment of the Hon'ble Supreme Court, cited above, he had completed more than one year's service. The Tribunal in this order, referred to above, had not laid down any cut off date and had not stated that casual labourers engaged after that date would not be eligible for relief granted by them. Therefore, according to him, the applicant is entitled to the same benefits which have been granted by the Tribunal by order dated 2.8.91.

5. We have heard the learned counsel for the parties and have gone through the records as also Judgments cited before us. The Union of India had filed an SLP against the Judgment of the Tribunal in the case of Munim Singh & Ors. The Hon'ble Supreme Court in their Judgment in this case, reported as Union of India & Ors. Vs. Munim Singh & Ors., JT 1992 (S) SC 417 upheld the order of the Tribunal except in so far as it related to absorption of the retrenched casual labourers anywhere in India wherever vacancies exist. The position that emerges from the Judgment of the Hon'ble Supreme Court now is that they have upheld the grant of benefits to the casual labourers under the scheme prepared by the Department. In the instant case also, the applicant shall be entitled to the benefit of the scheme dated 7.11.89 which was to come into force from 1.10.89. In other words, the applicant shall be considered for regularisation and absorption in accordance with the provisions of the scheme within the Division from which he was terminated in accordance with his seniority vis-a-vis others who were also retrenched. The respondents shall take necessary action within a period of four months from the date of receipt of a copy of this order.

6. The OA is disposed of accordingly, with no order as to costs.

  
(V.P. SHARMA)  
MEMBER (A)

  
(GOPAL KRISHNA)  
MEMBER (J)