

(22)

Central Administrative Tribunal
HYDERABAD BENCH : AT HYDERABAD

O.A. No. 522/89.

Date of Decision :

T.A.No.

K.Muddukrishnaiah

Petitioner.

Shri J.M.Naidu

Advocate for the
petitioner (s)

Versus

The Divl. Engineer, Telecommunications Department, Respondent.
Gudur, Nellore District & 2 others

Shri N.Bhaskara Rao,
Addl. CGSC

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. J.Narasimha Murthy : Member (Judl)

THE HON'BLE MR. R.Balasubramanian : Member (Admn)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

No

HJNM
M(J.)

HRBS
M(A)

(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.522/89.

Date of Judgment 13-12-1990

K.Muddukrishnaiah

.. Applicant

Versus

1. The Divl. Engineer,
Telecommunications
Department,
Gudur, Nellore District.

2. The Sub-Divisional Officer,
Telecommunications
Department,
Gudur, Nellore District.

3. Chief General Manager,
Telecommunications,
Hyderabad. .. Respondents

Counsel for the Applicant : Shri J.M.Naidu

Counsel for the Respondents : Shri N.Bhaskara Rao,
Addl. CGSC

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

I Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn) I

This application has been filed by Shri K.Muddukrishnaiah
under section 19 of the Administrative Tribunals Act, 1985
against the Divl. Engineer, Telecommunications Department,
Gudur, Nellore District and 2 others.

2. The applicant submits that he was appointed as casual
mazdoor in September, 1979 and that he is working continuous
in the department. A case for regularisation of his service
was taken up and Respondent No.2 addressed a letter

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on 19.12.88 to the Medical Officer, Govt. Hospital, Gudur requesting him to conduct ^{the} medical examination of the applicant for employment in the P&T Department in Group-D. The applicant was declared fit. Subsequently he also submitted the documents required by the respondents to enable regularisation of his services. While the respondents regularised the services of 3 other casual mazdoors the applicant was not regularised. The applicant submitted a representation on 10.5.89 for regularisation of his services but Respondent No.1 rejected his application on 14.6.89 stating that the applicant was absent from duty between 24.2.86 and 3.11.87. It is stated that the applicant submitted medical certificate for this period of absence. The applicant claims that since he has completed 7 years of service the break during this period should not be taken into consideration. The applicant also alleges that he was engaged for duties only for a much shorter duration than otherwise required and that he was being paid only Rs.11/- per day instead of Rs.32/-. He filed an O.A.No.375/89 and the same was dismissed as premature. It is prayed that this Tribunal may declare the action of the respondents in not regularising his services as illegal. He also seeks a declaration that he is entitled to salary on par with his juniors.

3. There is no counter affidavit filed in this case despite several adjournments given for the same.

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4. We have examined the case and heard the learned counsels for the applicant and the respondents. The learned counsel for the respondents argued that this case is covered by the Larger Bench decision in the case of casual labour. He could not satisfactorily explain how this could be a subject of the Larger Bench decision in the casual labour batch cases. The learned counsel for the applicant argued that this is not coming within the scope of the I.D.Act and is purely a service matter pertaining to the Department of Telecommunications. We agree with the contention of the learned counsel for the applicant. We find from the letter dated 19.12.1988 of the Sub Divisional Officer, Telecommunications, Gudur addressed the Medical Officer, Government Hospital, Gudur requesting him to arrange for the medical examination of a few candidates including the applicant for employment in the P&T Department in Group-D. The applicant complied with this direction. However, he was not selected. We find from the letter No.E.30/CMV dated 14.6.1989 at NL of the Telecom. District Engineer, Nellore that the applicant was not working from 24.2.1986 to 3.11.87 and that as per the standing instructions of the Chief General Manager, Telecommunications, Hyderabad, the casual mazdoor who did not work even for one day in any year from 1.4.1980 to 31.3.1987 is not eligible for regularisation. We have also seen the copy of letter No.TA/STA/9-1/Rlgs/V dated 30.11.1988 circulated by the Chief General Manager, Telecommunications, Andhra Pradesh, Hyderabad. Under cover of which the Director General, Telecommunications,

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New Delhi letter No.269-29/87/STN dated 18.11.88 on the subject of regularisation of casual labourers was circulated. According to the Director-General, Telecommunications letter dated 18.11.88 the eligibility conditions for regularisation are:

(1) Only those casual labourers/part-time casual labourers who have rendered 7 years' service as on 31.3.87 i.e., who have been serving this department since or prior to 1.4.80 are to be regularised against these posts.

(2) The following shall be the eligibility conditions:-

(i) Full time casual labourers who have put in a service of at least 240 days per year in any two years prior to 31.3.87.

(ii) In the case of full time casual labourers working for five days in a week in administrative offices observing 5 day week, 206 days or more per year in any two years prior to 31.3.87, after the introduction of the 5 day week scheme, will suffice.

(iii) Part time casual labourers should have rendered a service of at least 240 days per year in any four years prior to 31.3.87 (206 days per year for the period during which 5 day week is followed).

5. The applicant has been serving the department from September, 1979 itself and therefore fulfils one condition readily. As for other conditions, what is required is that he should have put in a service of at least 240 days per year in any two years prior to 31.3.87. Para 4 of the same letter states that regularisation should be done from the common list to be prepared by each of the recruiting units and that the casual/part time labourers shall be arranged in the order of their seniority with reference to the number of days of service rendered as on 31.3.87. Thus, the respondents should have fitted the applican

at the proper place in the seniority list depending upon the number of days of service he has rendered as on 31.3.87. Nowhere in the letter has it been stated that casual mazdoors who did not work even for one day in any year from 1.4.80 to 31.3.87 are ineligible for regularisation. This is a condition which was stipulated by the Chief General Manager, Telecommunications and is in violation of the letter of the Director-General, Telecommunications. On the other hand, the Director-General, Telecommunications letter permits absence from service ~~not for more than 10 days~~ even for far longer periods the only condition required being that he should have put in at least 240 days per year in any two years prior to 31.3.87.

6. We, therefore, direct the respondents to reconsider the case of the applicant in the light of the instructions contained in the Director-General, Telecommunications letter dated 18.11.88 and if the applicant comes within the range of regularisation he should be appointed in Group-D from the day he would otherwise have been eligible. This exercise should be completed by the respondents within two months of receipt of this order.

7. As for the other request of the applicant, we find that even at the time of admitting the application it had been ordered that in the event of other casual mazdoors being paid at Rs.32/- per day the applicant should also be paid the same. In view of this, we do not issue any other order on this aspect.

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8. The application is disposed of thus with the direction contained in para 6 above with no order as to costs.

MS
(J. Narasimha Murthy)
Member (Judl.).

R.Balasubramanian
(R. Balasubramanian)
Member (Admn.).

Dated

13th December 90

13/12/90
Deputy Registrar (J)

To

1. The Divl. Engineer,
Telecommunications Department,
Gudur, Nellore District.
2. The Sub-Divisional Officer,
Telecommunications Department,
Gudur, Nellore District.
3. Chief General Manager,
Telecommunications,
Hyderabad.
4. One Copy to Shri J.M. Naidu, Advocate,
Advocates Association, High Court Buildings,
Hyderabad. (A.P.).
5. One copy to Shri N. Bhasker Rao, Advocate,
Addl. CGSC.
6. One copy to Shri J. Narasimha Murthy,
Member (Judl.), C.A.T., Hyderabad Bench, Hyderabad.
7. One copy to Shri R. Balasubramanian,
Member (Admn.), C.A.T., Hyderabad Bench, Hyderabad.
8. One Spare Copy.

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CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. B. N. JAYASIMHA : V.C.
AND

THE HON'BLE MR. D. SURYA RAO : M(J)
AND

THE HON'BLE MR. J. NARASIMHA MURTY : M(J)
AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

DATE : 24-9- 13/12/90

ORDER / JUDGEMENT :

M.A. / R.A. / C.A. / No.

in

T.A. No.

W.P. No.

O.A. No. 522 / 1989

Admitted and Interim directions
issued.

Allowed.

Dismissed for default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. Ordered / Rejected.

No order as

Central Administrative Tribunal

DESPATCH

24 DEC 1990

HYDERABAD BENCH.