

(30)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

ORIGINAL APPLICATION NO.271 of 1990

DATE OF JUDGMENT: 3rd July, 1992.

BETWEEN:

1. Mr. M.Sivannarayana
2. Mr. Ch.Vijaya Prasad
3. Mr. B.Devanandam
4. Mr. J.Venkateswara Rao
5. Mr. B.Raju Rao ..

Applicants

AND

1. The Officer Engineering,  
Telecom,  
Palakol-534 260.
2. The Deputy General Manager,  
Telecom,  
Eluru 534 050
3. The Director General,  
Telecom (representing  
Union of India),  
New Delhi-110001. ..

Respondents

COUNSEL FOR THE APPLICANTS: Mr. Kota Bhaskar Rao

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ramana, Addl.CGSC

CORAM:

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

Hon'ble Shri C.J.Roy, Member (Judl.)

contd....

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JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE  
SHRI C.J.ROY, MEMBER (JUDL.)

This application is filed by the applicants under  
Section 19 of the Administrative Tribunals Act, 1985 for  
the following relief:-

"In view of the facts and submissions in  
paras 4 and 5 supra, the applicants pray  
that this Hon'ble Tribunal may be pleased  
to call for the records relating to the  
1st respondent's notice Annexure A1, con-  
tained in his Memo No.e.50/I/55, dated  
27.2.1990 and the Deputy General Manager,  
Telecom, West Godavari District, letter  
No.RE.104/CM/Corr/Genl/90-91/6, dated  
14.2.1990 and to quash the same in so  
far as the applicants are concerned  
declaring that they are illegal, null  
and void besides being mala fide and [redacted]  
calculated to deprive the applicants of  
the benefit of temporary status envisaged  
in the 3rd respondent's order dated  
7.11.1989 pending their absorption into  
regular establishment."

The applicants were recruited ~~and were employed~~ after their  
names were called through the Employment Exchange and  
were appointed as Casual Mazdoors and they have put in  
the following days of service:-

1st applicant - 448 days  
2nd applicant - 132 days

contd....

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3rd applicant - 165 days

4th applicant - 353 days and

5th applicant - 198 days.

Their service was terminated on the ground that they were having six months or more than six months break in their service and that they are not having mazdoor sponsor cards. The applicants stated that the orders of termination are not valid and they should be struck-down and they ~~max~~ should be taken back to duty.

2. We heard both the learned counsel for the applicants, Mr. Kota Bhaskar Rao, ~~Mr. Suryanarayana~~ and the learned Additional Standing Counsel for the respondents, Mr. N.V. Ramana. In a similar matter viz., in OA 336/88 and batch cases (J.L. Babu Rao and others Vs. Telecom Department, dated 27.3.1991, the Division Bench of this Tribunal had disposed of the said batch cases with the following directions:-

"Sri Suryanarayana has contended that in OA Nos. 490/88, 2/89, 3/89, 105/89, 347/89, 6244/89, 839/89, 160/90, 263/90, 296/90, 298/90, 342/90, 399/90, 725/90, 860/89, 262/90 and either all or some of the applicants belong to SC/ST community, and in their cases rule of reservation will have to be followed. The applicants in those cases will make representations to the respondents duly submitting their claim to SC/ST status.

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If they are able to establish that they belong to these communities they will be reengaged in preference to the OC candidates in accordance with the rules of reservation."

The Bench further observed that -

"Hence, if the applicants were aggrieved by the orders of termination they ought to and should have been raised an Industrial dispute. It is these circumstances that the counsel for the applicants did not (and in our view rightly so) press the question as to legality of the termination vis-a-vis the provisions of the I.D.Act. Since we have not gone into the question whether orders of termination are illegal, the question of granting back wages does not arise. However, it is open to the individual workmen to question the individual orders/action of the respondents in terminating their services before the labour court if such a remedy is available to them. The question of payment of back wages would be dependent upon a decision if any in such a proceeding."

The Bench also observed that -

"Subsequently the Supreme Court in Ramgopal & others Vs. Union of India

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in WO(C) No.1280/89 etc., directed that the respondents shall prepare a scheme on a rational basis for absorbing as far as practicable, the casual labours who have continuously worked for more than one year in the Telecom Department and this should be done within six months from now. The Supreme Court has also observed that no distinction can be drawn between the petitioners as a class of employees and those who were recruited and employed before the Supreme Court's order in the AIR 1987 SC 2342 ~~xxxxxx~~ and that on principle the benefit of the decision in AIR 1987 SC 2342 must be taken to apply even to those who were recruited after 30.3.1985."

Further, the Bench observed as follows:-

We find considerable merits in the submissions made by Shri Suryanarayana and accordingly direct the respondents to prepare the seniority

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Copy to:-

1. The Officer Engineering, Telecom, Palakol-60.
2. The Deputy General Manager, Telecom, Eluru-50.
3. The Director General, Telecom (representing Union of India), New Delhi-01.
4. One copy to Sri. Kota Bhaskar Rao, advocate, 1-2-343/3, Domalguda, Hyd.
5. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd.
6. One copy to Hon'ble Mr. C.J. Roy, Judicial Member, CAT, Hyd.
7. One spare copy.

Rsm/-

*Kota Bhaskar  
Post Office*

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list as per the various instructions issued by the D.G.Telcom letters viz.,

- 1) D.G.Telcom letter No.269-89/88-STN, dated 17.10.1988;
- 2) D.G.Telcom letter No.269-29/88-STN, dated 18.11.1988;
- 3) D.G.Telcom letter No.269-10/89-STN, dated 7.11.1989; and
- 4) D.G.Telcom letter No.269-10/89-STN, dated 17.12.1990.

The respondents are also directed to re-engage the applicants in accordance with their seniority subject to the availability of work and also to extend such other benefits as per D.Gs letters issued from time to time taking into consideration the Judgments of the Supreme Court, after preparing the seniority list/confirmation of temporary status as per the above circulars."

3. Since the OA is covered case, following the directions given in OA Nos.336/88 and batch cases referred to supra, we allow this application in part with similar directions as in OA Nos.336/88 and batch cases. No order as to costs.

(Dictated in the open Court).

R.Balasubramanian

(R.BALASUBRAMANIAN)  
Member(Admn.)

Chisholm  
(C.J.ROY)  
Member(Judl.)

Dated: 3rd July, 1992.

82070  
D.Y. Registrar (Judl.)

RM  
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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH.

THE HON'BLE MR.

AND

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

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY : MEMBER (J)

AND

THE HON'BLE MR.C.J. ROY : MEMBER (J)

Dated: 3/7/1992

ORDER / JUDGMENT

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

O.A. No.

271/90

T.A. No.

(W.P. No.)

Admitted and interim directions  
issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

M.A.Ordered/Rejected.

No order as to costs.

pvm.

