

(27)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA No. 172/91

Date of order: 20-2-1991.

Between
B. Somyasi Rao

...Applicant

Vs.

1. The Assistant Engineer, Telecom,
Railway Electrification Project,
Padmaraonagar, Secunderabad-500 025.
2. The Divisional Engineer, Telecom,
Railway Electrification Project,
Padmaraonagar, Secunderabad-500 025.
3. The Telecom District Manager,
KHAMMAM - 507 050
4. The Chief General Manager, Telecom,
A.P., Hyderabad - 500 001.
5. The Director-General, Telecom,
(Representing Union of India)
New Delhi - 110 001.

...Respondents

Appearance

For the Applicant : Shri C. Suryanarayana, Advocate

For the Respondents : Shri E. Madan Mohan Rao, Addl.
Central Govt. Standing Counsel

CORAM:

THE HON'BLE SHRI B.N.JAYASIMHA : VICE-CHAIRMAN

THE HON'BLE SHRI D.SURYA RAO : MEMBER (JUDICIA)

(Judgment of the Bench delivered by
Shri B.N.Jayasimha, Hon'ble Vice-Chairman)

bns

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The applicant herein who was a Casual Telecom Mazdoor under the Asst.Engineer, Telecom, Railway Electrification Project, Padmaraonagar, Secunderabad, has filed this application questioning verbal termination of his services from 23-9-90 and seeking a direction to the respondents to absorb him in the regular establishment and for the conferment of temporary status.

2. The applicant states that he was initially recruited and employed from 1-7-1986 onwards by the then Asst.Engineer, Telecom, Railway Electrification Project, Khammam for carrying out the Railway Electrification Project work. The applicant was employed as follows :

<u>Month & Year</u>	<u>No.of days employed</u>
July, 1986	22
August, 1986	31
October, 1986	31
November, 1986	30
December, 1986	31
January, 1987	29
February, 1987	28
March, 1987	29
April, 1987	15
May, 1987	31
August, 1987	31
September, 1987	30
October, 1987	31
January, 1988	24
February, 1988	29
March, 1988	17
April, 1988	30
May, 1988	31
June, 1988	30
July, 1988	31

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August, 1988	31
September, 1988	23
October, 1988	31
November, 1988	08
December, 1988	31
January, 1989	26
February, 1989	19
March, 1989	31
April, 1989	30
May, 1989	31
June, 1989	30
July, 1989	28
August, 1989	22
October, 1989	27
November, 1989	30
December, 1989	31
January, 1990	31
February, 1990	28
March, 1990	27
April, 1990	30
May, 1990	28
June, 1990	15
July, 1990	23
August, 1990	17
September, 1990	16

From
July, 1990 the applicant was asked to work in Machili-
patnam Telecom Division during the months of July,
August and September, 1990 and thereafter discharged
from service. He was employed for 56 days in those
months. During the one year preceding his termination,
the applicant was employed for 303 days i.e., for
more than 240 days in a year. xxxxxxxxxxxxxxxxxxxxxxx

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The applicant states that according to the orders issued by the Director General, Telecom, New Delhi in his order No.269-69/88-STN dt.17-10-1988 a combined seniority list of all casual mazdoors in respect of a recruitment unit will be maintained and the list will include all casual mazdoors belonging to the territorial jurisdiction of the recruitment unit, for various functional units such as Telecom/Projects/Maintenance Regions, Electrification Projects and Quality Assurance Circles etc., to which they are attached. Absorption of casual Labourers against regular Gr.'D' posts or their retrenchment due to exigencies such as non-availability of work has to be done strictly according to the combined seniority list. The Supreme Court in DAILY RATED CASUAL LABOUR UNDER THE P&T SERVICES VS. UNION OF INDIA AND OTHERS (AIR. 1987 SC 2342), directed that casual labourer who had put in one year service (240 days service in a year) should be regularised in accordance with a scheme to be worked out by the Departments. Subsequently the Supreme Court in RAMGOPAL & OTHERS Vs. UNION OF INDIA & OTHERS in W.P (C) No.1280/89 etc.,

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directed that "the respondents shall prepare a scheme on a rational basis for absorbing as far as practicable, the casual labourers who have continuously worked for more than one year in the Telecom Dept., and this should be done within 6 months from now". The Supreme Court had 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 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. The applicant therefore prays that a direction be issued to the respondents to prepare a seniority list in accordance with the directions of the Director General, P&T referred to above and confer temporary status on him and engage him for work according to his seniority in the relevant recruitment unit pending his absorption on a regular basis.

3. We have heard the learned counsel for the applicant Shri C. Suryanarayana, and Shri E. Madan Mohan Rao, learned Standing Counsel for the Central Govt. who takes notice at the admission stage. All that Shri Suryanarayana argues is that the Department has not undertaken/completed the preparation of seniority list for implementing the orders of the Supreme Court in DAILY RATES CASUAL LABOUR IN P&T., Vs. UNION OF INDIA & OTHERS (AIR 1987 SC 2342) and in RAM GOPAL AND OTHERS Vs.

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To

1. The Assistant Engineer, Telecom,
Railway Electrification Project,
Padmarao Nagar, Secunderabad.
2. The Divisional Engineer, Telecom,
Railway Electrification Project,
Padmaraonagar, Secunderabad.
3. The Telecom District Manager,
Khammam-050.
4. The Chief General Manager, Telecom,
A.O., Hyderabad-1.
5. The Director-General, Telecom,
Union of India, New Delhi-1.
6. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.Bench.
7. One copy to Mr.E.Madanmohan Rao, Addl. CGSC. CAT.Hyd.
8. One spare copy.

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UNION OF INDIA AND OTHERS in W.P.(C) No. 1280/89. (32)

Because of the delay in the preparation of seniority and regularisation of the services in terms of decision of the Supreme Court and implementing for which the Director General, Telecom had issued a circular dt.

17.10.1988, the applicant does not know where he stands as regards his seniority in his recruitment unit and therefore has reason to believe that his juniors are being appointed in preference to him. Shri Suryanarayana therefore states that he limits his prayer to issuance of a direction to the respondents to prepare a seniority list within a time to be specified by the Court and engage the applicant subject to the availability of work according to his position in the seniority list. He also states that he should be given temporary status in terms of these judgements and in terms of Director-General, Telecom's circular dt. 7.11.1989. We find considerable merit in the submissions made by Shri Suryanarayana and accordingly direct the respondents to prepare the seniority list for the recruitment of the applicant within a period of three months in compliance with D.G., Telecom's letter dt. 17.10.1988, and reengage the applicant in accordance with the seniority subject to the availability of work. The respondents will also extend such other benefits as are envisaged in the D.G., Telecom's letter dated 7.11.1989.

The application is allowed to the extent indicated above. No order as to costs.

B.N.Jayashimha
(B.N.JAYASIMHA)
Vice-Chairman

D.Surya Rao
(D.SURYA RAO)
Member (J)

Dated: 20th February, 1991.
Dictated in Open Court

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For D.Y. Registrar (Jyoti)

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CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH 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)

Dated: 20-2-1991.

ORDER / JUDGMENT:

M.A./R.A. /O.A. NO.

in

T.A. NO.

W.P. No.

O.A. No. 172/91

Admitted and Interim directions
issued.

Allowed

Disposed of with direction

Dismissed

Dismissed as withdrawn

Dismissed for default

Central Administrative Tribunal
DESPATCH

M.A. Ordered/Rejected. 7 MAR 1991

No order as to HYDERABAD BENCH.