

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

(21)

O.A. No. 173/91.

Date of Decision: 21-2-91

T.A.No.

Petitioner.

Advocate for the
petitioner (s)

Versus

Respondent.

Advocate for the
Respondent (s)

CORAM :

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

THE HON'BLE MR. D.SURYA RAO : MEMBER (JUDICIAL)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Ans*
2. To be referred to the Reporter or not? *Ans*
3. Whether their Lordships wish to see the fair copy of the Judgment? *Ans*
4. Whether it needs to be circulated to other Benches of the Tribunal? *Ans*
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)

B.N.J
(B.N.J)
VC

DSR
(DSR)
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA No. 173/91.

Date of order: 20-2-1991.

Between
Ch. Suryanarayana
Vs.

...Applicant

1. The Assistant Engineer, Telecom, Railway Electrification Project, Padmaranagar, Secunderabad-500 025.
2. The Divisional Engineer, Telecom, Railway Electrification Project, Padmaranagar, Secunderabad-500 025.
3. The Telecom District Manager, Visakhapatnam - 500 050.
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)

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Contd...2.

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 11-3-1988 onwards by the then Asst.Engineer, Telecom, Railway Electrification Project, Visakhapatnam for carrying out the Railway Electrification Project work. The applicant was employed as follows :

<u>Month & Year</u>	<u>No.of days employed</u>
March, 1988	17
April, 1988	30
May, 1988	31
June, 1988	30
July, 1988	31
March, 1989	24
April, 1989	30
May, 1989	31
June, 1989	30
July, 1989	28
October, 1989	27
November, 1989	30
December, 1989	31

Ans

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January, 1990	29
February, 1990	28
March, 1990	31
April, 1990	30
May, 1990	28
June, 1990	15
July, 1990	23
August, 1990	10
September, 1990	19

From 1-10-1990 onwards the applicant came to work under the control of the Divisional Engineer, Telecom, REP, Secunderabad for administrative reasons. From July, 1990 the applicant was asked to work in Machilipatnam Telecom Division during the months of July, August and September, 1990 and thereafter discharged from service. He was employed for 52 days in those months. During the one year preceding his termination, the applicant was employed for 301 days i.e., for more than 240 days in a year. -----

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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 WO (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.

(Contd....)

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,
Visakhapatnam.
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.

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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S/101
Deputy Registrar (J).

MSM
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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 - 9 - 1991.

ORDER / JUDGMENT:

M.A./R.A. C.A. NO.

in

T.A. NO.

W.P. No.

O.A. NO. 173/91

Admitted and Interim directions issued.

Allowed.

Disposed of with direction. Central Administrative Tribunal

Dismissed

DESPATCH

Dismissed as withdrawn. 1991

Dismissed for default.

HYDERABAD BENCH.

M.A. Ordered Rejected.

No order as to costs.