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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD  
-----

O.A.No.933/92

Dt.of order:4.7.1995

Between

Syed Hasan

.. Applicant

and

1. Director General, Telecommunications  
New Delhi.
2. Chief General Manager, Telecommns.,  
AP Circle, Hyderabad-1.
3. Sub-Divisional Officer, Telephones  
Cuddapah
4. Director of Canteens, Deptt. of Pers.& Trg.  
7th Flr, Nirvachan Bhavan, Patel Chowk  
New Delhi-1.

Appearances:

Counsel for the Applicant

:: Mr JV Lakshmana Rao

Counsel for the respondents

:: Mr NR Devraj, SrCGSC.

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RAO, VICE-CHAIRMAN

HON'BLE SHRI A.B. GORTHY, MEMBER(ADMN)

contd..

O.A.No.933/92

Dt.of order:04.07.1995

ORDER

As per Hon'ble Shri Justice V.Neeladri Rao, Vice-Chairman

Heard learned counsel for both the parties.

2. The applicant was engaged ~~as a Wash Boy~~ as a Wash Boy on a consolidated payment of Rs.200/- per month in the year 1984, in the canteen run by the Co-operative Society of the Employees of Telecom District, Cuddappah.

3. The applicant was paid daily wages as fixed by the District Collector, Cuddappah from 1986 to July, 1989 by the office of the 3rd respondent. It is stated for Respondent 3, that even though R3 paid the wages, during the above period, his services were being utilised in the Canteen, and from September, 1989, the applicant was taken as casual mazdoor and his services were partly utilised in the canteen.

4. The 3rd respondent terminated the services of the applicant with effect from 1.1.1991 by giving one month notice on 1.12.1990. The applicant was engaged by the Canteen with effect from 1.1.1991 on a daily wage basis at the rate of Rs.20/- per day. This OA is filed praying for a direction to the respondents to fix the pay of the applicant in the pay scale as per provisions contained in the D.P. & A.R. OM No.3/2/83/83-Dir(C) dated 3.11.83 on par with the Central Government employees with effect from 1.1.1984, failing which, the respondents may be directed to accord <sup>to</sup> him temporary status as a casual mazdoor with effect from 1.10.1989 as per the provisions of Deptt. of Pers. & Trg.OM No.49014/4/90-Estt(C) dated 8.4.1991.

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5. When it is stated for the respondents that the Canteen in regard to which the applicant was appointed in 1984 is a non-statutory, unrecognised canteen, no rejoinder is filed to challenge the same. It is also stated for the respondents that as this Canteen was not registered with R4 and as the employees in the office of R3 are less than 300, the contention for the respondents that the canteen referred to, is non-statutory, unrecognised, has to be accepted. There is force in the said contention.

6. The applicant was taken as a casual employee by R3 only in the year 1986. It is stated in the reply statement that he was paid on daily wage basis till July, 1989. Para (iv) of the Min. of Personnel, Public Grievances & Pensions, Deptt. of Personnel & Training OM No.49014/2/86-Estt(C) dated 7.6.88 states that 'where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work or 8 hours a day.' As the applicant was engaged from 1986 till July, 1989 under ACG 17 scheme, and as he worked in the canteen only during that period, it cannot be stated that he was entrusted with work similar to the work attended to by regular employees. Hence, we find that the applicant is not entitled to get pay at the rate of 1/30th of the minimum of the pay scale applicable to Group 'D', during the above period.

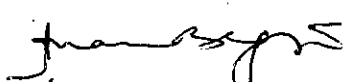
To

1. The Director General, Telecommunications,  
New Delhi.
2. The Chief General Manager, Telecommunications,  
A.P.Circle, Hyderabad-1.
3. The Sub-Divisional Officer, Telephones,  
Cuddapah.
4. The Director of Canteens, Dept.of Personnel and Training,  
7th Floor, Nirvachan Bhavan, Patel Chowk,  
New Delhi-1.
5. One copy to Mr.J.V.Lakshmana Rao, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
7. One copy to Library CAT.Hyd.
8. One spare copy.

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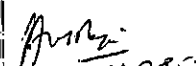
7. Even in the reply statement it is conceded that the applicant was taken as casual mazdoor in September, 1989 and he worked in that capacity till he was removed from service i.e. 1.1.1991. If the applicant was not paid at the rate of 1/30th of the pay at the minimum of the regular pay scale plus DA applicable for Group 'D' for the above period, the applicant has to be paid the difference as per the extant rules.
8. As the applicant is an employee of only unrecognised non-statutory canteen with effect from 1.1.1991, the applicant cannot claim any relief as against the respondents in regard to the pay or payscale of allowances with effect from 1.1.1991.
9. It is stated for R3 that as there was no work, the service of the applicant as casual mazdoor was dispensed with effect from 1.1.1991.
10. Hence, the only direction that has to be given to R3 is to engage him if there is work and if his juniors are engaged. We make it clear that for implementation of this order, no one who is working now has to be retrenched. The applicant's services have to be regularised as per his turn. OA ordered accordingly. No order as to costs. //

  
(A.B. GORTHI)  
Member (Admn)

  
(V. NEELADRI RAO)  
Vice-Chairman

Dated: 4th July, 1995

Dictated in the open court

  
Deputy Registrar (D) &

THPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE CHAIRMAN

A N D

A. B. Goshai

THE HON'BLE MR. R. RANGARAJAN; (M(ADMN))

DATED 4/7 1995.

~~ORDER~~/JUDGMENT:

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

in

OA.No.

933/92

TA.No.

(W.P.)

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No. order as to costs.

No Spare copy

