

(16)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

CONTEMPT PETITION NO.66 of 1994
IN
ORIGINAL APPLICATION NO.718 of 1992

Date of Order: 18.4.1996



Between:

K.RAMAKRISHNA PARAMAHAMSA

... PETITIONER

and

1. Shri P.Khan,
Chief General Manager,
Telecom, Andhra Pradesh circle,
Doorsanchar Bhavan, Hyderabad,

2. Shri K.Nancharaiah,
Assistant Engineer,
PCM Maintenance,
A.P.Telcom Circle, Patancheru,
Hyderabad 502 319,

3. Shri Mohd Hasim Hussain,
Junior Engineer, PCM Maintenance,
A.P.Telcommunications circle,
3rd Floor, Telephone Bhavan,
Hyderabad-3.

... RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.S.Krishna

COUNSEL FOR THE RESPONDENTS: SHRI N.V.RAGHAVA REDDY, Adl.
Standing Counsel for Central
Government.

CORAM:

HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE CHAIRMAN

HON'BLE SHRI H.RAJENDRA PRASAD, MEMBER (ADMN.)

JUDGEMENT

ORAL ORDER (PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI,
VICE CHAIRMAN)

Heard Shri S.Krishna, learned counsel for the
Petitioner and Shri V.Rajeswara Rao for Shri N.V.Raghava
Reddy, learned Standing Counsel for the Respondents.

2. We would not blame the applicant for the belief
that the respondents have not carried out the directions

[Signature]

contained in the order dated 16.9.1993 in Original Application No.718 of 1992 as the direction in Clause (a) of Para 3 would give rise to an interpretation which is sought to be placed with which we, however, do not agree. It is necessary to mention that the Original Application had been filed by the applicant aggrieved by the notice of termination of his engagement as Casual Mazdoor with effect from 10.10.90. He prayed for setting aside the said notice and to direct the respondents to reinstate him as a Casual Mazdoor and pay him arrears of wage. The respondents raised some factual disputes but their contention mainly was that the applicant had been disengaged as there was no work available with them. The applicant contended in the rejoinder that some persons who were junior to him were already continuing to be engaged. In the light of these contentions, respondents were directed as follows:-

(a) The applicant will be reengaged in case there is work available and in case anyone junior to him is continuing in service;

(b) In case there is no work available immediately, the respondents shall consider the case of the applicant as and when work become available for his reengagement in preference to freshers and those who have rendered lesser length of service than the applicant; and



(c) In case there is no work available under the PCM Maintenance, AP Telecom circle, Patancheru, the case of the applicant may be considered for engagement in any other circle in accordance with his seniority and as per the extant instructions.

3. The respondents informed the applicant by letter dated 20.5.1994 interalia that there were no Casual Mazdoors reengaged who happened to be junior to him, that there is no work available at present in any Sub-Divisions in the District and the work of sections was managed with the available staff only and that as there was ban on recruitment/engagement of Casual Mazdoors on daily wages in that Department, it was not possible to reengage him having terminated the services after issue of a month's notice as required under Rule 25 F of Industrial Disputes Act, 1947.

4. Since the order of the Tribunal contemplated that reengagement was to be granted depending on availability of work, aforesaid reply of the respondents was in compliance with the directions. Hence no question of contempt can arise.

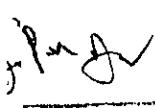
5. The learned counsel for the applicant, however, submits that direction (a) in the original order meant that if any junior was continuing and since according the applicant there were such persons already continuing, the

well

dfw

applicant was required to be reengaged. That argument can only imply that if there was no work available one of the socalled juniors had to be retrenched and he was to be replaced by giving reengagement to the applicant. That, however, is not correct reading of the direction. We interpret the direction to mean that if work was available, then the applicant was to be preferred to any other persons who were junior to him or a fresher for the purpose of reengagement and it did not imply that any person who was already in service had to be retrenched for the sake of the applicant. Moreover, the direction (a) when read in the context of direction (b) it becomes abundantly clear that the applicant has to be preferred as and when work would be available to offer reengagement in preference to freshers and to those who have rendered lesser length of service than him which in other words means "juniors".

6. The third direction although employs the expression that the applicant may be considered for reengagement in any other circle, the use of the word "circle" has to be understood to mean sub-divisions within the state of Andhra Pradesh under the control of Chief General Manager, Telecom, A.P.Circle and it cannot be extended to mean for any other circle in other parts of the country. We gather from the statement made by the respondents in the Review Application (S.R.No.4049/95) that the Telecom Division is the recruiting unit for regular absorption of Casual Mazdoors working in its Sub

(20)

5

Divisions. It, therefore, means that if the work was not immediately available in a particular sub-division but was available in some other sub-division in A.P.Circle then reengagement of the applicant was to be considered. No.

That statement reads as follows:-

"The Telecom Division is the recruiting unit for regular absorption of casual mazdoors working in its sub-divisions. In view of the said position, the retrenched casual mazdoor of a particular sub-division may be considered for reengagement in another sub-division if there is work. As such, the applicant at the most may be considered for his reengagement in another sub-division of that division if there is work. It is further submitted that as there was no work anywhere in the division, the applicant could not be reengaged."

In our opinion, the respondents have correctly interpreted clause (c) of the original order.

7. The position, therefore, boils down to saying that if work is available in any of the sub-divisions in the A.P.Telcom Division then the applicant has to be reengaged in preference to any fresher or any person who may happen to be junior to him. It is made clear that that does not imply that a junior person already continuing in service has to be reengaged for the sake of



(21)

6

the applicant but only when the work will be available and the applicant has to be reengaged, he shall be given preference over freshers as well as any person who may happen to be junior to him. We would like to add that some work is bound to be available in the course of time where the applicant can be reengaged and we expect the respondents to reengage him as soon as the work may be available in any Sub-division in order to respect the order of this Tribunal passed in the Original Application. We hope that the respondents will consider his claim dispassionately ignoring the fact that the applicant rushed by way of contempt petition to this Tribunal since the petition was filed on a bonafide belief that clause (a) of the original order carried interpretation as was placed by the applicant. We make it clear that the respondents were not at liberty to engage any person junior to him after the date of the order in the Original Application. For the present, we do not know for sure that no such junior has been engaged. We, therefore, leave it open to the applicant to bring to the notice of the respondents, if there is any incident of a person junior to him having been reengaged after the date of the order in the Original Application namely 16.9.1993. On such a incident being pointed out, the respondents shall examine the same and take suitable decision consistently with the original order as explained by us in this order.

